



Ohio Legislative Service Commission

Bill Analysis

Aida S. Montano

H.B. 543

130th General Assembly
(As Introduced)

Reps. Barborak, Fedor, Rogers, Ramos

BILL SUMMARY

- Specifies that a search must be conducted under a search warrant within ten days notwithstanding Criminal Rule 41(C)(2), which specifies that a search must be conducted within three days.
 - Provides that the right to conduct a search within ten days is a substantive legal right, but the manners of executing and returning the warrant are procedural matters governed by Criminal Rule 41.
 - Requests the Supreme Court to amend Criminal Rule 41 to be consistent with the ten-day period for conducting a search as provided by the bill.
 - Delays the effective date of the bill's changes to existing law to July 1, 2015.
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CONTENT AND OPERATION

Time period to execute search warrant

The bill requires that a search warrant command the officer or individual to conduct the search, notwithstanding Criminal Rule 41(C)(2), within ten days. The bill states that the right to conduct the search within ten days is a substantive legal right, but the manners of executing and returning the warrant and related papers are procedural matters governed by Criminal Rule 41.¹

¹ R.C. 2933.24(A).

Existing law

Under current law, not changed by the bill, a search warrant must be directed to the proper law enforcement officer or other authorized individual and must show or recite all the material facts alleged in the affidavit, and particularly name or describe the property to be searched for and seized, the place to be searched, and the person to be searched. The warrant must command the officer or individual to search the place or person named or described for the property, and to bring them, together with the person, before the judge or magistrate. The warrant must command that the search be made in the daytime, unless there is urgent necessity for a search in the night, in which case a search in the night may be ordered.²

The current statute does not provide a period of time within which a search must be conducted under a search warrant. However, Criminal Rule 41(C)(2) specifically requires that a search warrant must be directed to a law enforcement officer and command the officer, to search, within three days, the person or place named for the specified property. The bill's ten-day period within which to conduct a search under a search warrant conflicts with the three-day period under Criminal Rule 41(C)(2).

Request to the Supreme Court

The bill states that the General Assembly respectfully requests the Supreme Court to amend Criminal Rule 41 to be consistent with the amendment to R.C. 2933.24 that is made by the bill and that provides a ten-day period for conducting a search under a search warrant.³

Effective date of amendments

The bill provides that the above amendments to R.C. 2933.24 take effect on July 1, 2015.

HISTORY

ACTION	DATE
Introduced	05-19-14

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² R.C. 2933.24(A).

³ Section 3.

