

1 **AMENDMENTS TO SEARCH WARRANTS**

2 2005 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: David L. Thomas**

5

LONG TITLE

6 **General Description:**

7
8 This bill repeals and reenacts the Code of Criminal Procedure provision regarding the
9 evidence and procedures involved in a magistrate's issuance of a search warrant. The
10 reenacted section refers to the procedures in Rule 40 of the Rules of Criminal
11 Procedure. This bill also amends the Code of Criminal Procedure regarding the
12 management of the records and information a magistrate relies upon in issuing a search
13 warrant to reflect use of remotely communicated search warrants.

14 **Highlighted Provisions:**

15 This bill:

- 16 ▶ repeals current criminal procedure provisions regarding the grounds for and the
17 process for issuing a search warrant;
- 18 ▶ refers to the recently enacted Rule 40 of the Rules of Criminal Procedure regarding
19 evidence and procedures for issuing search warrants;
- 20 ▶ clarifies that a remotely communicated search warrant shall be served as a written
21 document; and
- 22 ▶ includes reference to the management of recorded testimony that is used as the basis
23 for the issuance of a warrant.

24 **Monies Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **77-23-209**, as renumbered and amended by Chapter 142, Laws of Utah 1994

31 REPEALS AND REENACTS:

32 **77-23-204**, as last amended by Chapter 282, Laws of Utah 1998



34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **77-23-204** is repealed and reenacted to read:

36 **77-23-204. Remotely communicated search warrants served in written form.**

37 A remotely communicated search warrant issued under Rule 40 of the Rules of
38 Criminal Procedure shall be served in a written form upon the person or place to be served.

39 Section 2. Section **77-23-209** is amended to read:

40 **77-23-209. Return of recorded testimony and warrant to district court.**

41 (1) The magistrate shall annex [~~to the depositions and, affidavits upon which the search~~
42 ~~warrant is based,]~~ the search warrant, the return, and the inventory to the depositions,
43 affidavits, or recorded testimony upon which the search warrant is based.

44 (2) If [~~he is without]~~ the magistrate does not have authority to proceed further with
45 respect to the offense [~~under]~~ regarding which the warrant was issued, [~~he]~~ the magistrate shall
46 [~~return them]~~ forward the warrant and the depositions, affidavits, or recorded testimony to the
47 appropriate court of the county having jurisdiction over the offense within 15 days after the
48 return.



Legislative Review Note
as of 12-1-04 10:05 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0030

Amendments to Search Warrants

17-Jan-05

12:33 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst