

**AMENDMENTS TO SEARCH WARRANTS**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: David L. Thomas**

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

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

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

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

REPEALS AND REENACTS:

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

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

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 Section **77-23-204** is repealed and reenacted to read:

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

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

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

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

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

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