

## HB0308S01 compared with HB0308

~~text~~ shows text that was in HB0308 but was deleted in HB0308S01.

inserted text shows text that was not in HB0308 but was inserted into HB0308S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative V. Lowry Snow proposes the following substitute bill:

### SEARCH WARRANT AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: V. Lowry Snow**

Senate Sponsor: \_\_\_\_\_

---

#### LONG TITLE

##### General Description:

This bill modifies the Utah Code of Criminal Procedure regarding items obtained by a search warrant.

##### Highlighted Provisions:

This bill:

- ▶ authorizes an officer who obtains items pursuant to a search warrant to return the items if they are determined to not be relevant to the investigation;
- ▶ requires that the officer retain the items if they ~~are~~ subject to discovery by the defendant;
- ▶ requires an itemized receipt for all items returned; and
- ▶ provides under state records provisions that items that are returned under this provision are presumed to not have historical or evidentiary value.

## HB0308S01 compared with HB0308

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

ENACTS:

77-23-215, Utah Code Annotated 1953

---

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

Section 1. Section 77-23-215 is enacted to read:

**77-23-215. Return of documents, materials, and objects obtained through use of a search warrant.**

(1) (a) If ~~the~~ at any time an officer who executes a search warrant or who subsequently ~~determines that~~ reviews any documents, materials, or objects that were seized pursuant to a search warrant determines that any of the items are ~~not~~ no longer relevant to the investigation for which the warrant was issued, the officer ~~may~~ shall return those documents, materials, or objects to the person or entity from whom they were seized upon the written request of the person or entity, provided that:

(i) the items are not subject to retention by the law enforcement agency or prosecutorial agency under state law;

(ii) returning the items is reasonably practical; and

(iii) in the opinion of the officer or the prosecuting attorney returning the items will not compromise any ongoing criminal investigation or case.

(b) If a document, material, or object seized ~~may~~ is likely to be subject to discovery by the defense pursuant to Utah Rules of Criminal Procedure, Rule 16(a)(3) or (4), the document, material, or object is not considered irrelevant and may not be returned without a court order.

~~(2)~~ (3) (a) The officer under Subsection (1) shall obtain a receipt for the documents, materials, or objects that are returned, and shall file with a magistrate of the issuing court an amended return of warrant and inventory, that reflects the returned items.

(b) The receipt shall identify specifically which documents, materials, or objects were

## HB0308S01 compared with HB0308

returned.

~~(3)~~4 (a) Documents and materials returned under this section are not records as defined by of Subsection 63G-2-103(22)(a).

(b) Objects returned under this section are presumed to not have historical or evidentiary value and are not subject to a retention schedule under Subsection 63A-12-103(10).

†

### **Legislative Review Note**

— as of ~~2-9-15~~ 2:49 PM

~~Office of Legislative Research and General Counsel;~~ (5) This section does not apply to any document, material, or object that is subject to Title 24, Forfeiture and Disposition of Property Act.