

SECOND REGULAR SESSION

SENATE BILL NO. 795

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BARTLE.

Pre-filed December 1, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

3447S.011

AN ACT

To repeal section 542.276, RSMo, and to enact in lieu thereof one new section relating to search warrants.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 542.276, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 542.276, to read as follows:

542.276. 1. Any peace officer or prosecuting attorney may make
2 application under section 542.271 for the issuance of a search warrant.

3 2. The application shall:

4 (1) Be in writing;

5 (2) State the time and date of the making of the application;

6 (3) Identify the property, article, material, substance or person which is
7 to be searched for and seized, in sufficient detail and particularity that the officer
8 executing the warrant can readily ascertain it;

9 (4) Identify the person, place, or thing which is to be searched, in
10 sufficient detail and particularity that the officer executing the warrant can
11 readily ascertain whom or what he or she is to search;

12 (5) State facts sufficient to show probable cause for the issuance of a
13 search warrant;

14 (6) Be verified by the oath or affirmation of the applicant;

15 (7) Be filed in the proper court;

16 (8) Be signed by the prosecuting attorney of the county where the search
17 is to take place, or his or her designated assistant.

18 3. The application may be supplemented by a written affidavit verified by
19 oath or affirmation. Such affidavit shall be considered in determining whether
20 there is probable cause for the issuance of a search warrant and in filling out any

21 deficiencies in the description of the person, place, or thing to be searched or of
22 the property, article, material, substance, or person to be seized. Oral testimony
23 shall not be considered. The application may be submitted by facsimile or other
24 electronic means.

25 4. The judge shall determine whether sufficient facts have been stated to
26 justify the issuance of a search warrant. If it appears from the application and
27 any supporting affidavit that there is probable cause to believe that property,
28 article, material, substance, or person subject to seizure is on the person or at the
29 place or in the thing described, a search warrant shall immediately be
30 issued. The warrant shall be issued in the form of an original and two copies.

31 5. The application and any supporting affidavit and a copy of the warrant
32 shall be retained in the records of the court from which the warrant was issued.

33 6. The search warrant shall:

34 (1) Be in writing and in the name of the state of Missouri;

35 (2) Be directed to any peace officer in the state;

36 (3) State the time and date the warrant is issued;

37 (4) Identify the property, article, material, substance or person which is
38 to be searched for and seized, in sufficient detail and particularity that the officer
39 executing the warrant can readily ascertain it;

40 (5) Identify the person, place, or thing which is to be searched, in
41 sufficient detail and particularity that the officer executing the warrant can
42 readily ascertain whom or what he or she is to search;

43 (6) Command that the described person, place, or thing be searched and
44 that any of the described property, article, material, substance, or person found
45 thereon or therein be seized or photographed or copied and within ten days after
46 filing of the application, any photographs or copies of the items may be filed with
47 the issuing court;

48 (7) Be signed by the judge, with his or her title of office indicated.

49 7. A search warrant issued under this section may be executed only by a
50 peace officer. The warrant shall be executed by conducting the search and
51 seizure commanded. The search warrant issued under this section may be issued
52 by facsimile or other electronic means.

53 8. A search warrant shall be executed as soon as practicable and shall
54 expire if it is not executed and the return made within ten days after the date of
55 the making of the application. **A search and any subsequent searches of**
56 **the contents of any property, article, material, or substance seized and**

57 removed from the location of the execution of any search warrant
58 during its execution may be conducted at any time during or after the
59 execution of the warrant, subject to the continued existence of probable
60 cause to search the property, article, material, or substance seized and
61 removed. A search and any subsequent searches of the property,
62 article, material, or substance seized and removed may be conducted
63 after the time for delivering the warrant, return, and receipt to the
64 issuing judge has expired. A supplemental return and receipt shall be
65 delivered to the issuing judge upon final completion of any search
66 which concludes after the expiration of time for delivering the original
67 return and receipt.

68 9. After execution of the search warrant, the warrant with a return
69 thereon, signed by the officer making the search, shall be delivered to the judge
70 who issued the warrant. The return shall show the date and manner of
71 execution, what was seized, and the name of the possessor and of the owner,
72 when he or she is not the same person, if known. The return shall be
73 accompanied by a copy of the itemized receipt required by subsection 6 of section
74 542.291. The judge or clerk shall, upon request, deliver a copy of such receipt to
75 the person from whose possession the property was taken and to the applicant for
76 the warrant.

77 10. A search warrant shall be deemed invalid:

78 (1) If it was not issued by a judge; or

79 (2) If it was issued without a written application having been filed and
80 verified; or

81 (3) If it was issued without probable cause; or

82 (4) If it was not issued in the proper county; or

83 (5) If it does not describe the person, place, or thing to be searched or the
84 property, article, material, substance, or person to be seized with sufficient
85 certainty; or

86 (6) If it is not signed by the judge who issued it; or

87 (7) If it was not executed within the time prescribed by subsection 8 of
88 this section.

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