

SENATE BILL NO. 52—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED DECEMBER 20, 2014

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing search warrants.
(BDR 14-159)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to search warrants; authorizing the use of secure electronic transmission for the submission of an application and affidavit for, and the issuance by a magistrate of, a search warrant; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a search warrant may only be issued: (1) pursuant to an affidavit or affidavits sworn to before a magistrate and establishing the grounds for issuing the warrant; or (2) in lieu of an affidavit, pursuant to an oral statement taken by a magistrate, given under oath and filed with the clerk of the court. (NRS 179.045) This bill authorizes the use of secure electronic transmission for the submission of an application and affidavit for, and the issuance by a magistrate of, a search warrant.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 179.045 is hereby amended to read as follows:
179.045 1. A search warrant may issue only on affidavit or affidavits sworn to before the magistrate and establishing the grounds for issuing the warrant or as provided in subsection ~~2.~~ **3.**
If the magistrate is satisfied that grounds for the application exist or that there is probable cause to believe that they exist, the magistrate



1 shall issue a warrant identifying the property and naming or
2 describing the person or place to be searched.

3 2. *Secure electronic transmission may be used for the*
4 *submission of an application and affidavit required by subsection*
5 *1, and for the issuance of a search warrant by a magistrate. The*
6 *Nevada Supreme Court shall adopt rules not inconsistent with the*
7 *laws of this State to carry out the provisions of this subsection.*

8 3. In lieu of the affidavit required by subsection 1, the
9 magistrate may take an oral statement given under oath, which must
10 be recorded in the presence of the magistrate or in the magistrate's
11 immediate vicinity by a certified court reporter or by electronic
12 means, transcribed, certified by the reporter if the reporter recorded
13 it, and certified by the magistrate. The statement must be filed with
14 the clerk of the court.

15 ~~13.1~~ 4. Upon a showing of good cause, the magistrate may
16 order an affidavit or a recording of an oral statement given pursuant
17 to this section to be sealed. Upon a showing of good cause, a court
18 may cause the affidavit or recording to be unsealed.

19 ~~14.1~~ 5. After a magistrate has issued a search warrant, whether
20 it is based on an affidavit or an oral statement given under oath, the
21 magistrate may orally authorize a peace officer to sign the name of
22 the magistrate on a duplicate original warrant. A duplicate original
23 search warrant shall be deemed to be a search warrant. It must be
24 returned to the magistrate who authorized the signing of it. The
25 magistrate shall endorse his or her name and enter the date on the
26 warrant when it is returned. Any failure of the magistrate to make
27 such an endorsement and entry does not in itself invalidate the
28 warrant.

29 ~~15.1~~ 6. The warrant must be directed to a peace officer in the
30 county where the warrant is to be executed. It must:

31 (a) State the grounds or probable cause for its issuance and the
32 names of the persons whose affidavits have been taken in support
33 thereof; or

34 (b) Incorporate by reference the affidavit or oral statement upon
35 which it is based.

36 ➤ The warrant must command the officer to search forthwith the
37 person or place named for the property specified.

38 ~~16.1~~ 7. The warrant must direct that it be served between the
39 hours of 7 a.m. and 7 p.m., unless the magistrate, upon a showing of
40 good cause therefor, inserts a direction that it be served at any time.

41 ~~17.1~~ 8. The warrant must designate the magistrate to whom it is
42 to be returned.

43 9. *As used in this section, "secure electronic transmission"*
44 *means the sending of information from one computer system to*
45 *another computer system in such a manner as to ensure that:*



1 *(a) No person other than the intended recipient receives the*
2 *information;*

3 *(b) The identity of the sender of the information can be*
4 *authenticated; and*

5 *(c) The information which is received by the intended recipient*
6 *is identical to the information that was sent.*

7 **Sec. 2.** This act becomes effective upon passage and approval.

