

SENATE BILL NO. 316—COMMITTEE ON JUDICIARY

MARCH 17, 2003

Referred to Committee on Judiciary

SUMMARY—Revises provisions pertaining to issuance of search warrants. (BDR 14-1278)

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

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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; revising the provisions pertaining to the issuance of search warrants; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 179.045 is hereby amended to read as follows:
2 179.045 1. A search warrant may issue only on affidavit or
3 affidavits sworn to before the magistrate and establishing the
4 grounds for issuing the warrant or as provided in subsection 2. If the
5 magistrate is satisfied that grounds for the application exist or that
6 there is probable cause to believe that they exist, he shall issue a
7 warrant identifying the property and naming or describing the
8 person or place to be searched.
9 2. In lieu of the affidavit required by subsection 1, the
10 magistrate may take an oral statement given under oath, which must
11 be recorded in the presence of the magistrate or in his immediate
12 vicinity by a certified court reporter or by electronic means,
13 transcribed, certified by the reporter if he recorded it, and certified
14 by the magistrate. The statement must be filed with the clerk of the
15 court.
16 3. Upon a showing of good cause, the magistrate may order an
17 affidavit or a recording of an oral statement given pursuant to this
18 section to be sealed. Upon a showing of good cause, a court may
19 cause the affidavit or recording to be unsealed.



* S B 3 1 6 R 1 *

1 4. After a magistrate has issued a search warrant, whether ~~it~~
2 *the warrant* is based on an affidavit or an oral statement given under
3 oath, he may orally authorize a peace officer to sign the name of the
4 magistrate on a duplicate original warrant. A duplicate original
5 search warrant shall be deemed to be a search warrant. ~~It~~ *The*
6 *warrant* must be returned to the magistrate who authorized the
7 signing of his name on ~~it~~ *the warrant*. The magistrate shall
8 endorse his name and enter the date on the warrant when it is
9 returned to him. Any failure of the magistrate to make such an
10 endorsement and entry does not in itself invalidate the warrant.

11 5. The warrant must ~~be~~ :

12 (a) *Be* directed to a peace officer in the county where the
13 warrant is to be executed. ~~It must:~~

14 ~~—(a) State the grounds or probable cause for its issuance and the~~

15 (b) *Set forth:*

16 (1) *The criminal offenses alleged to have been committed;*

17 (2) *The names of the persons whose affidavits or oral*
18 *statements* have been taken *pursuant to subsection 1 or 2* in
19 support ~~thereof; or~~

20 ~~—(b) Incorporate by reference the affidavit or oral statement upon~~
21 ~~which it is based. The warrant must command~~ *of the grounds or*
22 *probable cause for issuance of the warrant;*

23 (3) *The persons and places to be searched; and*

24 (4) *The property to be seized.*

25 (c) *Command* the officer to search forthwith the person or place
26 named for the property specified.

27 ~~[6.—The warrant must direct that it]~~

28 (d) *Direct that the warrant* be served between the hours of
29 7 a.m. and 7 p.m., unless the magistrate, upon a showing of good
30 cause therefor, inserts a direction that ~~it~~ *the warrant* be served at
31 any time.

32 ~~[7.—The warrant must designate]~~

33 (e) *Designate* the magistrate to whom ~~it~~ *the warrant* is to be
34 returned.

35 6. *An affidavit or recording of an oral statement:*

36 (a) *Is not required to be attached to a warrant or left at any*
37 *place searched.*

38 (b) *Not later than 10 days after the execution of the warrant,*
39 *must be filed with the issuing court, except upon good cause*
40 *shown, and must be made available to any person searched or*
41 *whose place was searched, unless the magistrate orders that the*
42 *affidavit or recording of an oral statement be sealed pursuant to*
43 *subsection 3.*

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

