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## DIGEST

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HB 361 Original

2022 Regular Session

Marino

**Abstract:** Provides relative to the search for and seizure of medical records.

Present law (C.Cr.P. Art. 161) authorizes a judge, except as provided in present law, to issue a warrant authorizing the search for and seizure of anything within the territorial jurisdiction of the court which:

- (1) Has been the subject of theft.
- (2) Is intended for use or has been used as a means of committing an offense.
- (3) May constitute evidence tending to prove the commission of an offense.

Proposed law retains present law and adds an exception for a judge to issue a search warrant for medical records outside of the territorial jurisdiction of the court.

Present law (C.Cr.P. Art. 163) provides that a search warrant cannot be lawfully executed after the expiration of the 10th day after its issuance, unless authorized by present law.

Proposed law adds an exception to present law for search warrants for medical records.

Proposed law authorizes a judge to issue a search warrant for the search for and seizure of medical records of any person. Provides that the warrant may be issued by a judge of either the court of territorial jurisdiction where the investigation for the medical records is being conducted or the court of territorial jurisdiction where the custodian of the medical records may be found. The warrant may be executed in any place the medical records may be found and shall be directed to any peace officer who shall obtain and distribute the medical records as directed in the warrant.

Proposed law provides that a search warrant for medical records remains in effect for 180 days after its issuance.

Proposed law provides that any examination of any medical records seized pursuant to proposed law shall be at the direction of the attorney general, the district attorney, or the investigating agency. Further provides that any examination of the medical records may be conducted at any time before or during the pendency of any criminal proceeding in which the medical records may be used as evidence.

(Amends C.Cr.P. Arts. 161(A) and 163(C); Adds C.Cr.P. Art. 163.2)