

HOUSE BILL NO. 1809

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WRIGHT.

4288H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 71, RSMo, by adding thereto one new section relating to municipal search warrants for ordinance violations.

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

Section A. Chapter 71, RSMo, is amended by adding thereto one new section, to be known as section 71.950, to read as follows:

71.950. 1. A municipal judge may issue a warrant to:

2 **(1) Search and seize;**

3 **(2) Search and photograph, copy, or record a violation of an ordinance of the**
4 **municipality; or**

5 **(3) Enter onto property to abate nuisances under section 67.398, 67.410, or**
6 **71.285.**

7 **2. Any peace officer of the city, code enforcement officer, or prosecuting attorney**
8 **may apply for the issuance of a search warrant. The application shall:**

9 **(1) Be in writing;**

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

11 **(3) Identify the property, article, material, substance, or person that is to be**
12 **searched for and seized or documented or identify the nuisance to be abated, in**
13 **sufficient detail and particularity that the officer executing the warrant can readily**
14 **ascertain it;**

15 **(4) Identify the person, place, or thing that is to be searched, in sufficient detail**
16 **and particularity that the officer executing the warrant can readily ascertain whom or**
17 **what the officer is to search;**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **(5) State facts sufficient to show probable cause for the issuance of a search**
19 **warrant;**

20 **(6) State the municipality was previously refused permission to enter the**
21 **property; and**

22 **(7) Be verified by the oath or affirmation of the applicant.**

23 **3. (1) The application shall be supplemented by a written affidavit verified by**
24 **oath or affirmation. The application may be submitted by facsimile or other electronic**
25 **means.**

26 **(2) Oral testimony shall not be considered. Such affidavit shall be considered in**
27 **determining whether probable cause exists for the issuance of a search warrant and in**
28 **filling out any deficiencies in the description of:**

29 **(a) The person, place, or thing to be searched;**

30 **(b) The property, article, material, substance, or person to be seized; or**

31 **(c) The nuisance to be abated.**

32 **4. The municipal judge shall determine whether sufficient facts have been stated**
33 **to justify the issuance of a search warrant. If it appears from the application and any**
34 **supporting affidavit that probable cause exists to believe that the property, article,**
35 **material, substance, or person subject to seizure is on the person or at the place or in the**
36 **thing described or that a nuisance exists on the property that is subject to abatement by**
37 **the municipality, a search warrant shall immediately be issued. The warrant shall be**
38 **issued in the form of an original and two copies.**

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

41 **6. The search warrant shall:**

42 **(1) Be in writing and in the name of the municipality;**

43 **(2) Be directed to a peace officer of the city or a code enforcement officer;**

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

45 **(4) Identify the property, article, material, substance, or person that is to be**
46 **searched for and seized or the nuisance to be abated, in sufficient detail and**
47 **particularity that the officer executing the warrant can readily ascertain it;**

48 **(5) Identify the person, place, or thing that is to be searched or the nuisance to be**
49 **abated, in sufficient detail and particularity that the officer executing the warrant can**
50 **readily ascertain whom or what the officer is to search;**

51 **(6) Command that the described person, place, or thing be searched or that the**
52 **nuisance abated within ten days after filing of the application; and**

53 **(7) Be signed by the municipal judge, with such judge's title of office indicated.**

54 7. A peace officer of the city or a code enforcement officer are the only officers
55 authorized to execute a search warrant issued under this section. The warrant shall be
56 executed by conducting the search and seizure commanded or by abating the nuisance
57 commanded. The search warrant issued under this section may be issued by facsimile
58 or other electronic means.

59 8. A search warrant shall be executed as soon as practicable and shall expire if it
60 is not executed and the return made within ten days after the date of the making of the
61 application. A search and any subsequent searches of the contents of any property,
62 article, material, or substance seized and removed from the location of the execution of
63 any search warrant during its execution may be conducted at any time during or after
64 the execution of the warrant, subject to the continued existence of probable cause to
65 search the property, article, material, or substance seized and removed. A search and
66 any subsequent searches of the property, article, material, or substance seized and
67 removed may be conducted after the time for delivering the warrant, return, and receipt
68 to the issuing judge has expired. A supplemental return and receipt shall be delivered to
69 the issuing judge upon final completion of any search that concludes after the expiration
70 of time for delivering the original return and receipt.

71 9. After execution of the search warrant, the warrant with a return thereon,
72 signed by the officer making the search, shall be delivered to the municipal judge who
73 issued the warrant. The return shall show the date and manner of execution, what was
74 seized, and the name of the possessor and of the owner, when the possessor and owner is
75 not the same person, if known. The return shall be accompanied by a copy of an
76 itemized receipt. The judge or clerk shall, upon request, deliver a copy of such receipt to
77 the person from whose possession the property was taken and to the applicant for the
78 warrant or, if no person was present, posted in a conspicuous place on the property.

79 10. A search warrant shall be deemed invalid if it:

80 (1) Was not issued by a municipal judge;

81 (2) Was issued without a written application having been filed and verified;

82 (3) Was issued without probable cause;

83 (4) Was not issued in the proper city;

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

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

87 (7) Was not executed within the time prescribed by subsection 8 of this section.

88 11. The application or execution of a search warrant shall not be deemed invalid
89 for the sole reason that the application or execution of the warrant relies upon electronic

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90 **signatures of the peace officer or prosecutor seeking the warrant or judge issuing the**
91 **warrant.**

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