

HOUSE BILL 1035

By Watson

AN ACT to amend Tennessee Code Annotated, Title 40,  
relative to search and seizure.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 6, Part 1, is amended by adding the following as a new section thereto:

40-6-108.

(a) Notwithstanding any provision of law to the contrary, any evidence that is seized as a result of executing a search warrant issued pursuant to title 40, chapter 6, part 1 or pursuant to Rule 41 of the Tennessee Rules of Criminal Procedure that is otherwise admissible in a criminal proceeding and not seized in violation of the constitutions of the United States or the State of Tennessee shall not be suppressed as a result of a violation of title 40, chapter 6, part 1 or a violation of Rule 41 of the Tennessee Rules of Criminal Procedure if the court determines that such violation was a result of a good faith mistake or technical violation made by a law enforcement officer, court official, or the issuing magistrate.

(b) This section does not limit or prohibit the enforcement of any appropriate civil remedy in actions pursuant to other provisions of law against any individual or government entity found to have conducted an unreasonable search or seizure; provided, however, unless otherwise provided by federal law or the Tennessee constitution, if any evidence is seized as a result of a good faith mistake or technical violation, the individual or government entity shall not be civilly liable.

(c) As used in this section, "good faith mistake or technical violation "

means:

(1) An unintentional error made by a law enforcement officer, court official, or issuing magistrate in the form, preparation, issuance, service, execution, filing and handling of copies, or return and inventory of a search warrant;

(2) When a law enforcement officer was in possession of sufficient information to adequately describe items to be seized or the location of the items at the time and the issuing magistrate failed to gather such information and place it in the search warrant; or

(3) A reasonable reliance on a statute that is subsequently ruled unconstitutional; or controlling court precedent that is overruled after the issuance of a search warrant, unless the court overruling the precedent orders the new precedent to be applied retroactively.

SECTION 2. This act shall take effect July 1, 2011, the public welfare requiring it.