

**Representative V. Lowry Snow** proposes the following substitute bill:

**SEARCH WARRANT AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: V. Lowry Snow**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the Utah Code of Criminal Procedure regarding items obtained by a search warrant.

**Highlighted Provisions:**

This bill:

- ▶ authorizes an officer who obtains items pursuant to a search warrant to return the items if they are determined to not be relevant to the investigation;
- ▶ requires that the officer retain the items if they subject to discovery by the defendant;
- ▶ requires an itemized receipt for all items returned; and
- ▶ provides under state records provisions that items that are returned under this provision are presumed to not have historical or evidentiary value.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:



26 [77-23-215](#), Utah Code Annotated 1953

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28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section [77-23-215](#) is enacted to read:

30 **[77-23-215](#). Return of documents, materials, and objects obtained through use of a**  
31 **search warrant.**

32 (1) (a) If at any time an officer who executes a search warrant or who subsequently  
33 reviews any documents, materials, or objects that were seized pursuant to a search warrant  
34 determines that any of the items are no longer relevant to the investigation for which the  
35 warrant was issued, the officer shall return those documents, materials, or objects to the person  
36 or entity from whom they were seized upon the written request of the person or entity, provided  
37 that:

38 (i) the items are not subject to retention by the law enforcement agency or prosecutorial  
39 agency under state law;

40 (ii) returning the items is reasonably practical; and

41 (iii) in the opinion of the officer or the prosecuting attorney returning the items will not  
42 compromise any ongoing criminal investigation or case.

43 (b) If a document, material, or object seized is likely to be subject to discovery by the  
44 defense pursuant to Utah Rules of Criminal Procedure, Rule 16(a)(3) or (4), the document,  
45 material, or object is not considered irrelevant and may not be returned without a court order.

46 (3) (a) The officer under Subsection (1) shall obtain a receipt for the documents,  
47 materials, or objects that are returned, and shall file with a magistrate of the issuing court an  
48 amended return of warrant and inventory, that reflects the returned items.

49 (b) The receipt shall identify specifically which documents, materials, or objects were  
50 returned.

51 (4) (a) Documents and materials returned under this section are not records as defined  
52 by of Subsection [63G-2-103](#)(22)(a).

53 (b) Objects returned under this section are presumed to not have historical or  
54 evidentiary value and are not subject to a retention schedule under Subsection [63A-12-103](#)(10).

55 (5) This section does not apply to any document, material, or object that is subject to  
56 Title 24, Forfeiture and Disposition of Property Act.