

REPRINTED

FILED FEB 18 1998

SENATE FILE 2259
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2010)

(p. 514)
Passed Senate, Date 3/3/98 Passed House, Date 4/8/98
Vote: Ayes 46 Nays 0 Vote: Ayes 97 Nays 0
Approved April 17, 1998

A BILL FOR

1 An Act relating to search warrant applications.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SENATE FILE 2259

S-5073

1 Amend Senate File 2259 as follows:
2 1. Page 1, line 28, by inserting after the word
3 "informant" the following: "or the credibility of the
4 information given by the informant".

By LARRY MCKIBBEN

S-5073 FILED MARCH 2, 1998

adopted
3/3/98 (p. 514)

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S.F. 2259

1 Section 1. Section 808.3, Code 1997, is amended to read as
2 follows:

3 808.3 APPLICATION FOR SEARCH WARRANT.

4 A person may make application for the issuance of a search
5 warrant by submitting before a magistrate a written
6 application, supported by the person's oath or affirmation,
7 which includes facts, information, and circumstances tending
8 to establish sufficient grounds for granting the application,
9 and probable cause for believing that the grounds exist. The
10 application shall describe the person, place, or thing to be
11 searched and the property to be seized with sufficient
12 specificity to enable an independent reasonable person with
13 reasonable effort to ascertain and identify the person, place,
14 or thing. If the magistrate issues the search warrant, the
15 magistrate shall endorse on the application the name and
16 address of all persons upon whose sworn testimony the
17 magistrate relied to issue the warrant together with the
18 abstract of each witness' testimony, or the witness'
19 affidavit. However, if the grounds for issuance are supplied
20 by an informant, the magistrate shall identify only the peace
21 officer to whom the information was given ~~but shall include a~~
22 ~~determination that the information appears credible either~~
23 ~~because sworn testimony indicates that the informant has given~~
24 ~~reliable information on previous occasions or because the~~
25 ~~informant or the information provided by the informant appears~~
26 ~~credible for reasons specified by the magistrate.~~ The
27 application or sworn testimony supplied in support of the
28 application must establish the credibility of the informant.
29 The magistrate may in the magistrate's discretion require that
30 a witness upon whom the applicant relies for information
31 appear personally and be examined concerning the information.

32 EXPLANATION

33 This bill amends the provision relating to applications for
34 a search warrant by striking language which requires a
35 magistrate to make a determination of the credibility of

1 information in a warrant application if the application is
2 based on information from an informant. The bill requires the
3 application or sworn testimony supplied in support of the
4 application to establish the credibility of the informant.
5 The requirement that the magistrate identify in the warrant
6 only the peace officer to whom the information was given is
7 retained.

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31 a witness upon whom the applicant relies for information
32 appear personally and be examined concerning the information.

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SENATE FILE 2259

H-8844

1 Amend Senate File 2259, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, line 32, by inserting after the word
4 "information." the following: "Any property seized
5 pursuant to a search warrant issued pursuant to this
6 section shall be forfeited in the manner prescribed in
7 chapter 809A."

8 2. Page 1, by inserting after line 32 the
9 following:

10 "Sec. ____ Section 809A.17, subsection 3, Code
11 1997, is amended to read as follows:

12 3. Forfeited property may be used by the
13 department of justice in the enforcement of the
14 criminal law. The department may give, sell, or trade
15 property to any other state agency or to any other law
16 enforcement agency within the state if, in the opinion
17 of the attorney general, it will enhance law
18 enforcement within the state. If the property is cash
19 or is sold or otherwise converted to cash, the
20 department of justice shall distribute at least ninety
21 percent of the funds to the agency or agencies which
22 originally seized the property."

23 3. Title page, line 1, by inserting after the
24 words "relating to" the following: "searches and
25 seizures, by affecting the allocation of seized and
26 forfeited property and the issuance of".

By LARSON of Linn	LORD of Dallas
LAMBERTI of Polk	GRIES of Crawford
TEIG of Hamilton	HAHN of Muscatine
RANTS of Woodbury	RAYHONS of Hancock
GIPP of Winneshiek	MERTZ of Kossuth
DOLECHECK of Ringgold	VAN FOSSEN of Scott
BRAUNS of Muscatine	RICHARDSON of Warren
KREMER of Buchanan	HANSEN of Pottawattamie
HOUSER of Pottawattamie	ARNOLD of Lucas
DIX of Butler	CORMACK of Webster
CARROLL of Poweshiek	BARRY of Harrison
VANDE HOEF of Osceola	DREES of Carroll
DRAKE of Pottawattamie	BELL of Jasper
HEATON of Henry	GARMAN of Story
MUNDIE of Webster	METCALF of Polk
WELTER of Jones	TYRRELL of Iowa
KLEMME of Plymouth	WARNSTADT of Woodbury
HOLMES of Scott	WHITEAD of Woodbury
VEENSTRA of Sioux	

H-8844 FILED APRIL 1, 1998

W/D 4/8/98

(P. 1406)

Ms Ribben
King
Hansen

SSB 2010

Judiciary
Sponsored By
SF/HF 2259

SENATE/HOUSE FILE
BY (PROPOSED ATTORNEY GENERAL
BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to search warrant applications.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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EXPLANATION

31 This bill amends the provision relating to applications for
32 a search warrant by striking language which requires a
33 magistrate to make a determination of the credibility of
34 information in a warrant application if the application is
35 based on information from an informant. The requirement that

1 the magistrate identify in the warrant only the peace officer
2 to whom the information was given is retained.

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SENATE FILE 2259

AN ACT
RELATING TO SEARCH WARRANT APPLICATIONS.

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

Section 1. Section 808.3, Code 1997, is amended to read as follows:

808.3 APPLICATION FOR SEARCH WARRANT.

A person may make application for the issuance of a search warrant by submitting before a magistrate a written application, supported by the person's oath or affirmation, which includes facts, information, and circumstances tending to establish sufficient grounds for granting the application, and probable cause for believing that the grounds exist. The application shall describe the person, place, or thing to be searched and the property to be seized with sufficient specificity to enable an independent reasonable person with reasonable effort to ascertain and identify the person, place, or thing. If the magistrate issues the search warrant, the magistrate shall endorse on the application the name and address of all persons upon whose sworn testimony the magistrate relied to issue the warrant together with the abstract of each witness' testimony, or the witness' affidavit. However, if the grounds for issuance are supplied by an informant, the magistrate shall identify only the peace officer to whom the information was given ~~but shall include a determination that the information appears credible either because sworn testimony indicates that the informant has given reliable information on previous occasions or because the informant or the information provided by the informant appears credible for reasons specified by the magistrate.~~ The application or sworn testimony supplied in support of the application must establish the credibility of the informant or

the credibility of the information given by the informant. The magistrate may in the magistrate's discretion require that a witness upon whom the applicant relies for information appear personally and be examined concerning the information.

MARY E. KRAMER
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2259, Seventy-seventh General Assembly.

MARY PAT GUNDERSON
Secretary of the Senate

Approved April 17, 1998

TERRY E. BRANSTAD
Governor