

Sen. Judiciary 3/12 to Pass 3/26 (p. 935)

HOUSE FILE 2400

Judiciary
Mann. Chair
Ritsema
Small

3 29 1984

Place On Calendar

HOUSE FILE 2400

BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(Formerly House File 2197)

Passed House, Date 3-8-84 (p. 829) Passed Senate, Date 3-26-84 (p. 1052)

Vote: Ayes 95 Nays 0 Vote: Ayes 46 Nays 0

Approved April 11, 1984 (p. 1896)

A BILL FOR

1 An Act providing for uniform search warrants, applications
2 for search warrants, endorsements for search warrants,
3 and returns of search warrants.

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

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HF 2400

1 Section 1. Rule of criminal procedure 30, Iowa court
2 rules, second edition, is amended by striking the rule and
3 inserting in lieu thereof the following:

4 Rule 30. FORMS FOR WARRANTS. A search warrant shall be
5 in substantially the following form:

6 State of Iowa, County of _____

7

8 State of Iowa) Before (Judge, Magistrate) _____

9 vs.) Criminal Case No. _____

10 _____)

11 (Defendant))

SEARCH WARRANT

12

13 TO ANY PEACE OFFICER OF THIS STATE:

14 Proof has been made before me, as provided by law, on this
15 day that (describe property) is being kept at (describe location/
16 address) in the possession of _____, and has
17 been or is being held in violation of the laws of this state.

18 You are commanded to make immediate search of (state here
19 whether the search is of a person (named), premises, or a des-
20 ignated thing.)

21 If the property or any portion of the property is found,
22 you are commanded to bring the property before me at my office.

23 Dated at _____, Iowa, this _____ day of _____, 19__.

24

25 _____
(signature)

(official title)

26 An application for a search warrant shall be in
27 substantially the following form:

28 State of Iowa, County of _____

29 State of Iowa)

30 vs.)

31 _____)

32 (Defendant))

APPLICATION FOR

SEARCH WARRANT

33 (attach additional sheets as needed)

34 I, _____, being first duly sworn on oath, state:

35 1. That I am a resident of _____, County, Iowa.

1 2. That I have good reason to believe that certain property is
2 either being used or held in such a manner or is of such a char-
3 acter as to render it subject to a search warrant (check appli-
4 cable ground or grounds) because:

5 _____ The property has been obtained in violation of the law.

6 _____ The possession of the property is unlawful.

7 _____ The property has been used or is being possessed with
8 the intent to be used as a means of committing a public
9 offense or concealed to prevent an offense from being
10 discovered.

11 _____ The property is relevant and material as evidence in a
12 criminal prosecution.

13 3. That the property is:

14 (a) Describable as follows (with specificity):

15
16

17 (b) Located at or in (include city, street, and number if
18 applicable)

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21 (c) Believed to be in the possession of (name of person
22 or group--if search is to be of person include physical
23 description)

24
25

26 4. That the facts and circumstances which lead me to believe
27 that probable cause for this search exist are as follows:

28 a. My personal knowledge:

29 (1) Facts:

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31 (2) Source of Facts:

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33 b. Facts told to me by informant:

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35 (1) Facts:

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(2) How informant learned of these facts:

(3) Reason for reliability of this informant (although the informant need not be named, character, circumstances, and past reliable information by this informant should be stated)

Wherefore, the undersigned applies to a judge or magistrate of _____ County, Iowa for a search warrant to be issued and for the described person, premises, place, residence, or vehicle to be searched for the described property.

(Applicant's legal signature)

Subscribed and sworn to before me by _____, this _____ day of _____, 19__.

Judge or Magistrate

In and for _____ County, Iowa.

An endorsement on a search warrant shall be in substantially the following form:

JUDGE'S OR MAGISTRATE'S ENDORSEMENT TO SEARCH WARRANT APPLICATION

1. The following person gave sworn testimony upon which the undersigned judge or magistrate relied to issue the search warrant:

a. _____
(Name) (Address)

b. Abstract of testimony:

2. Information supplied to the above peace officer _____ by an informant (who need not be named):

The information appears credible because (select):

1 _____ a. Sworn testimony indicates this informant has given
2 reliable information on previous occasions.
3 or

4 _____ b. Sworn testimony indicates this informant has not
5 been used before but that either the informant appears
6 credible or the information appears credible for the
7 following reasons:

- 8 3. The information (is/is not) found to justify probable cause.
- 9 4. I therefore (do/do not) issue the warrant.

10 _____
11 Judge or Magistrate

12 The form of a return of search warrant shall be
13 substantially as follows:

14 RETURN OF SERVICE

15 State of Iowa) ss.
16 _____ County)

17
18 I, _____, being a peace officer in and
19 for _____ County, state of Iowa, certify that the at-
20 tached search warrant came into my hands on the _____ day
21 of _____, 19__, and on the _____ day of _____,
22 19__, I executed the warrant by making a search of the described
23 person, premises, or thing and found the following property:
24 (state kind and quantity)

25 _____
26 _____
27 _____

28 which property I seized by virtue of the attached warrant and
29 which I now hold subject to further order of the court.

30 I have further executed the attached warrant by giving
31 a copy of the warrant, together with a receipt for the property
32 taken to _____, or;

33 No person having been found on the premises, I have left
34 a copy of the inventory and a receipt for the property taken
35 at the place where the property taken was found.

1 I, the officer by whom the attached warrant was executed,
2 do certify that the above inventory contains a true and
3 detailed account of the property taken by me on the warrant,
4 and is accurate to the best of my knowledge.

5 fees _____
6 services _____
7 mileage _____
8 cartage _____

9 _____
10 _____
11 _____
12 (official title)

13 Sec. 2. Rules of Criminal Procedure, second edition, are
14 amended by adding the following new rule:

15 NEW RULE. 31. FORMS OTHER THAN WARRANTS. The forms con-
16 tained in the appendix of forms are illustrative and not
17 mandatory, and any particular instrument may be in more or
18 less the form illustrated.

19 EXPLANATION

20 This bill provides for the establishment of uniform forms
21 of search warrants, applications for search warrants,
22 endorsements of search warrants, and returns of search
23 warrants.

24 This bill takes effect July 1 following its enactment.

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HOUSE FILE 2400

AN ACT

PROVIDING FOR UNIFORM SEARCH WARRANTS, APPLICATIONS FOR SEARCH WARRANTS, ENDORSEMENTS FOR SEARCH WARRANTS, AND RETURNS OF SEARCH WARRANTS.

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

Section 1. Rule of criminal procedure 30, Iowa court rules, second edition, is amended by striking the rule and inserting in lieu thereof the following:

Rule 30. FORMS FOR WARRANTS. A search warrant shall be in substantially the following form:

State of Iowa, County of _____

State of Iowa) Before (Judge, Magistrate) _____
vs.) Criminal Case No. _____
_____)
(Defendant)) SEARCH WARRANT

TO ANY PEACE OFFICER OF THIS STATE:

Proof has been made before me, as provided by law, on this

day that (describe property) is being kept at (describe location/address) in the possession of _____, and has been or is being held in violation of the laws of this state.

You are commanded to make immediate search of (state here whether the search is of a person (named), premises, or a designated thing.)

If the property or any portion of the property is found, you are commanded to bring the property before me at my office. Dated at _____, Iowa, this _____ day of _____, 19__.

(signature) (official title)

An application for a search warrant shall be in substantially the following form:

State of Iowa, County of _____
State of Iowa)
vs.) APPLICATION FOR
_____) SEARCH WARRANT
(Defendant))

(attach additional sheets as needed)

- I, _____, being first duly sworn on oath, state:
1. That I am a resident of _____, County, Iowa.
 2. That I have good reason to believe that certain property is either being used or held in such a manner or is of such a character as to render it subject to a search warrant (check applicable ground or grounds) because:
_____ The property has been obtained in violation of the law.
_____ The possession of the property is unlawful.
_____ The property has been used or is being possessed with the intent to be used as a means of committing a public offense or concealed to prevent an offense from being discovered.
_____ The property is relevant and material as evidence in a criminal prosecution.
 3. That the property is:
(a) Describable as follows (with specificity):

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- (b) Located at or in (include city, street, and number if applicable)
- (c) Believed to be in the possession of (name of person or group--if search is to be of person include physical description)

4. That the facts and circumstances which lead me to believe that probable cause for this search exist are as follows:

a. My personal knowledge:

- (1) Facts:
- (2) Source of Facts:

b. Facts told to me by informant:

- (1) Facts:
- (2) How informant learned of these facts:
- (3) Reason for reliability of this informant (although the informant need not be named, character, circumstances, and past reliable information by this informant should be stated)

Wherefore, the undersigned applies to a judge or magistrate of _____ County, Iowa for a search warrant to be issued and for the described person, premises, place, residence, or vehicle to be searched for the described property.

(Applicant's legal signature)

Subscribed and sworn to before me by _____ this _____ day of _____ 19__.

Judge or Magistrate

In and for _____ County, Iowa.

An endorsement on a search warrant shall be in substantially the following form:

JUDGE'S OR MAGISTRATE'S ENDORSEMENT TO SEARCH WARRANT APPLICATION

1. The following person gave sworn testimony upon which the undersigned judge or magistrate relied to issue the search warrant:

a. _____
(Name) (Address)

b. Abstract of testimony:

2. Information supplied to the above peace officer _____ by an informant (who need not be named):

The information appears credible because (select):

- _____ a. Sworn testimony indicates this informant has given reliable information on previous occasions.
- or
- _____ b. Sworn testimony indicates this informant has not been used before but that either the informant appears credible or the information appears credible for the following reasons:

- 3. The information (is/is not) found to justify probable cause.
- 4. I therefore (do/do not) issue the warrant.

Judge or Magistrate

The form of a return of search warrant shall be substantially as follows:

RETURN OF SERVICE

State of Iowa) ss.
_____ County)

I, _____, being a peace officer in and for _____ County, state of Iowa, certify that the attached search warrant came into my hands on the _____ day of _____, 19____, and on the _____ day of _____, 19____, I executed the warrant by making a search of the described person, premises, or thing and found the following property:
(state kind and quantity)

_____ which property I seized by virtue of the attached warrant and which I now hold subject to further order of the court.

I have further executed the attached warrant by giving a copy of the warrant, together with a receipt for the property taken to _____, or:

No person having been found on the premises, I have left a copy of the inventory and a receipt for the property taken at the place where the property taken was found.

I, the officer by whom the attached warrant was executed, do certify that the above inventory contains a true and detailed account of the property taken by me on the warrant, and is accurate to the best of my knowledge.

fees _____
services _____
mileage _____
cartage _____

(official title)

Sec. 2. Rules of Criminal Procedure, second edition, are amended by adding the following new rule:

NEW RULE. 31. FORMS OTHER THAN WARRANTS. The forms contained in the appendix of forms are illustrative and not mandatory, and any particular instrument may be in more or less the form illustrated.

DONALD D. AVENSON
Speaker of the House

ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2400, Seventieth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved *April 11*, 1984

TERRY E. BRANSTAD
Governor