

As Amended by House Committee

HOUSE BILL No. 2048

By 2014 Special Committee on Judiciary

1-20

HB2048-Balloon-King
Prepared by: Jason Thompson
Office of Revisor of Statutes
March 17, 2015

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to search warrants; amending K.S.A. 2014 Supp. 22-2502 and
3 repealing the existing section.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2014 Supp. 22-2502 is hereby amended to read as
7 follows: 22-2502.(a) A search warrant shall be issued only upon the oral or
8 written statement, including those conveyed or received by electronic
9 communication, of any person under oath or affirmation which states facts
10 sufficient to show probable cause that a crime has been, is being or is
11 about to be committed and which particularly describes a person, place or
12 means of conveyance to be searched and things to be seized. Any
13 statement which is made orally shall be either taken down by a certified
14 shorthand reporter, sworn to under oath and made part of the application
15 for a search warrant, or recorded before the magistrate from whom the
16 search warrant is requested and sworn to under oath. Any statement orally
17 made shall be reduced to writing as soon thereafter as possible. If the
18 magistrate is satisfied that grounds for the application exist or that there is
19 probable cause to believe that they exist, the magistrate may issue a search
20 warrant for:

21 (1) The search or seizure of the following:

22 (A) ~~Any thing which has been used in the commission of a crime, or~~
23 ~~any contraband or any property which constitutes or may be considered a~~
24 ~~part of the evidence, fruits or instrumentalities of a crime under the laws of~~
25 ~~this state, any other state or of the United States. The term "fruits" as used~~
26 ~~in this act shall be interpreted to include any property into which the thing~~
27 ~~or things unlawfully taken or possessed may have been converted. Any~~
28 ~~item that can be seized under the fourth amendment to the United States~~
29 ~~constitution. Any thing which has been used in the commission of a~~
30 ~~crime, or any contraband or any property which constitutes or may be~~
31 ~~considered a part of the evidence, fruits or instrumentalities of a crime~~
32 ~~under the laws of this state, any other state or of the United States.~~
33 ~~The term "fruits" as used in this act shall be interpreted to include~~
34 ~~any property into which the thing or things unlawfully taken or~~
35 ~~possessed may have been converted;~~

36 (B) any person who has been kidnapped in violation of the laws of

Strike "Any...converted" in lines 29-35 and
Insert "Any item that can be seized under the
fourth amendment to the United States constitution"

1 this state or who has been kidnapped in another jurisdiction and is now
2 concealed within this state;

3 (C) any human fetus or human corpse;

4 (D) any biological material, DNA, cellular material, blood, hair or
5 fingerprints;

6 (E) any person for whom a valid felony arrest warrant has been
7 issued in this state or in another jurisdiction; or

8 (F) (i) any information concerning the user of an electronic
9 communication service; any information concerning the location of
10 electronic communications systems, including, but not limited to, towers
11 transmitting cellular signals involved in any wire communication; and any
12 other information made through an electronic communications system; or

13 (ii) the jurisdiction granted in this paragraph shall extend to
14 information held by entities registered to do business in the state of
15 Kansas, submitting to the jurisdiction thereof, and entities primarily
16 located outside the state of Kansas if the jurisdiction in which the entity is
17 primarily located recognizes the authority of the magistrate to issue the
18 search warrant; or

19 (2) the installation, maintenance and use of a tracking device.

20 (b) (1) The search warrant under subsection (a)(2) shall authorize the
21 installation and use of the tracking device to track and collect tracking data
22 relating to a person or property for a specified period of time, not to
23 exceed 30 days from the date of the installation of the device.

24 (2) The search warrant under subsection (a)(2) may authorize the
25 retrieval of the tracking data recorded by the tracking device during the
26 specified period of time for authorized use of such tracking device within a
27 reasonable time after the expiration of such warrant, for good cause
28 shown.

29 (3) The magistrate may, for good cause shown, grant one or more
30 extensions of a search warrant under subsection (a)(2) for the use of a
31 tracking device, not to exceed 30 days each.

32 (c) Before ruling on a request for a search warrant, the magistrate
33 may require the affiant to appear personally and may examine under oath
34 the affiant and any witnesses that the affiant may produce. Such
35 proceeding shall be taken down by a certified shorthand reporter or
36 recording equipment and made part of the application for a search warrant.

37 (d) For a warrant executed prior to July 1, 2014, affidavits or sworn
38 testimony in support of the probable cause requirement of this section or
39 search warrants for tracking devices shall not be made available for
40 examination without a written order of the court, except that such
41 affidavits or testimony when requested shall be made available to the
42 defendant or the defendant's counsel for such disposition as either may
43 desire.