

2012 Kansas Statutes

22-2502. Search warrants; issuance; proceedings authorized; availability of affidavits and testimony in support of probable cause requirement; use of electronic communications. (a) A search warrant shall be issued only upon the oral or written statement, including those conveyed or received by electronic communication, of any person under oath or affirmation which states facts sufficient to show probable cause that a crime has been or is being committed and which particularly describes a person, place or means of conveyance to be searched and things to be seized. Any statement which is made orally shall be either taken down by a certified shorthand reporter, sworn to under oath and made part of the application for a search warrant, or recorded before the magistrate from whom the search warrant is requested and sworn to under oath. Any statement orally made shall be reduced to writing as soon thereafter as possible. If the magistrate is satisfied that grounds for the application exist or that there is probable cause to believe that they exist, the magistrate may issue a search warrant for the seizure of the following:

(1) Any things which have been used in the commission of a crime, or any contraband or any property which constitutes or may be considered a part of the evidence, fruits or instrumentalities of a crime under the laws of this state, any other state or of the United States. The term "fruits" as used in this act shall be interpreted to include any property into which the thing or things unlawfully taken or possessed may have been converted.

(2) Any person who has been kidnapped in violation of the laws of this state or who has been kidnapped in another jurisdiction and is now concealed within this state.

(3) Any human fetus or human corpse.

(4) Any person for whom a valid felony arrest warrant has been issued in this state or in another jurisdiction.

(5) (A) Any information concerning the user of an electronic communication service; any information concerning the location of electronic communications systems, including, but not limited to, towers transmitting cellular signals involved in any wire communication; and any other information made through an electronic communications system.

(B) The jurisdiction granted in this paragraph shall extend to information held by entities registered to do business in the state of Kansas, submitting to the jurisdiction thereof, and entities primarily located outside the state of Kansas if the jurisdiction in which the entity is primarily located recognizes the authority of the magistrate to issue the search warrant.

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

(c) Affidavits or sworn testimony in support of the probable cause requirement of this section shall not be made available for examination without a written order of the court, except that such affidavits or testimony when requested shall be made available to the defendant or the defendant's counsel for such disposition as either may desire.

(d) As used in this section: (1) "Electronic communication" means the use of electronic equipment to send or transfer a copy of an original document; and

(2) "electronic communication service" and "electronic communication system" have the meaning as defined in K.S.A. 22-2514, and amendments thereto.

(e) Nothing in this section shall be construed as requiring a search warrant for cellular location information in an emergency situation pursuant to K.S.A. 22-4615, and amendments thereto.

History: L. 1970, ch. 129, § 22-2502; L. 1973, ch. 142, § 1; L. 1976, ch. 164, § 1; L. 1979, ch. 90, § 9; L. 1981, ch. 151, § 1; L. 1992, ch. 128, § 17; L. 2010, ch. 70, § 4; L. 2011, ch. 100, § 5; July 1.