

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senator Walters**

A Bill

SENATE BILL 29

For An Act To Be Entitled

8 "AN ACT TO AMEND TITLE 16, CHAPTER 82, SUBCHAPTER 2 OF THE
9 ARKANSAS CODE OF 1987 TO AUTHORIZE THE USE OF AN ORAL
10 STATEMENT UNDER OATH UNDER CERTAIN CIRCUMSTANCES TO OBTAIN
11 A SEARCH WARRANT; AND FOR OTHER PURPOSES."

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13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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15 SECTION 1. Arkansas Code 16082-201 is hereby amended to read as
16 follows:

17 "16-82-201. Authority and grounds to issue.

18 (a) (1) A search warrant may be issued by any judicial officer of this
19 state only upon affidavit sworn to before a judicial officer which establishes
20 the grounds for its issuance.

21 (2) Instead of a written affidavit, a judicial officer may take an oral
22 statement under oath when circumstances exist making it impracticable to
23 obtain a warrant in person. The oral statement shall be recorded and
24 transcribed *within seventy-two (72) hours*. The transcribed statement shall be
25 considered to be an affidavit for the purposes of this section. In such
26 cases, the recording of the sworn oral statement and the transcribed statement
27 shall be certified by the judicial officer receiving it and shall be retained
28 as a part of the record of the proceedings for the issuance of the warrant.

29 (b) A warrant may be issued to search for and to seize any property:

30 (1) Stolen or embezzled in violation of the laws of this state; or

31 (2) Designed or intended for use or which has been used as a means of
32 committing a criminal offense; or

33 (3) Which is held or possessed by any person in violation of the laws
34 of this state; or

35 (4) That constitutes evidence of a criminal offense or is of

1 evidentiary value in any criminal prosecution.

2 (c) Upon complaint being made on oath before any officer authorized to
3 issue process for the apprehension of offenders that any personal property has
4 been stolen or embezzled and that the complainant suspects that the property
5 is concealed in any particular house or place, if the officer shall be
6 satisfied that there is reasonable ground for the suspicion, he shall issue a
7 warrant to search for the property.

8 (d) Subsections (a) and (b) of this section shall be supplementary to
9 existing statutory and common law authority for the issuance of search
10 warrants and shall repeal only those in irreconcilable conflict herewith."

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12 SECTION 2. All provisions of this Act of a general and permanent nature
13 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
14 Revision Commission shall incorporate the same in the Code.

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16 SECTION 3. If any provision of this Act or the application thereof to
17 any person or circumstance is held invalid, such invalidity shall not affect
18 other provisions or applications of the Act which can be given effect without
19 the invalid provision or application, and to this end the provisions of this
20 Act are declared to be severable.

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22 SECTION 4. All laws and parts of laws in conflict with this Act are
23 hereby repealed.

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26 /s/Walters et al
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