

2019 Regular Session

SENATE BILL NO. 68

BY SENATOR GARY SMITH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIMINAL PROCEDURE. Provides relative to search warrants. (8/1/19)

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AN ACT

To amend and reenact Code of Criminal Procedure Art. 163(C) and to enact Code of Criminal Procedure Art. 163(E), relative to search warrants; to provide relative to search warrants for data or information contained on a computer or other electronic device; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Art. 163(C) is hereby amended and reenacted and Code of Criminal Procedure Art. 163(E) is hereby enacted to read as follows:

Art. 163. Officer to whom directed; time for execution; electronic devices

* * *

C. Except as authorized by Article 163.1 or as otherwise provided in this Article, or as otherwise provided by law, a search warrant cannot be lawfully executed after the expiration of the tenth day after its issuance.

* * *

E.(1) Notwithstanding any other provision of law to the contrary, if a warrant is issued to search for and seize data or information contained in or on a computer, disk drive, flash drive, cellular telephone, or other electronic

- 1 **communication, or data storage device, the warrant is considered to have been**
 2 **executed within the time allowed in Paragraph C of this Article if the device was**
 3 **seized before the expiration of the time allowed, or if the device was in law**
 4 **enforcement custody at the time of the issuance of the warrant.**
- 5 **(2) Notwithstanding any other provision of law to the contrary, if a**
 6 **device described in Subparagraph (1) of this Paragraph was seized before the**
 7 **expiration of the time allowed in Paragraph C of this Article, or if the device**
 8 **was in law enforcement custody at the time of the issuance of the warrant, any**
 9 **data or information contained in or on the device may be recovered or extracted**
 10 **pursuant to the warrant at any time, and such recovery or extraction shall not**
 11 **be subject to the time limitation in Paragraph C of this Article.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement Jr.

DIGEST

SB 68 Engrossed

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Present law provides that a search warrant cannot be lawfully executed after the expiration of the 10th day after its issuance.

Proposed law provides an exception to present law for data or information contained on an electronic device. Proposed law provides that if a search warrant is issued to search for and seize data or information contained in or on a computer, disk drive, flash drive, cellular telephone, or other electronic, communication, or data storage device, the warrant is considered to have been executed within the 10-day period allowed by present law if the device was seized before the expiration of the 10-day period, or if the device was in law enforcement custody at the time of the issuance of the warrant. Proposed law further provides that if the electronic device was seized before the expiration of the 10-day period, or if the device was in law enforcement custody at the time of the issuance of the warrant, any data or information contained in or on the device may be recovered or extracted at any time pursuant to the warrant.

Effective August 1, 2019.

(Amends C.Cr.P. Art. 163(C); adds C.Cr.P. Art. 163(E))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Clarifies proposed law relative to extracting data from an electronic device "pursuant to the warrant".