

## SENATE BILL No. 47

By Senator Journey

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9 AN ACT concerning search warrants; relating to affidavit or testimony  
10 supporting probable cause; access; amending K.S.A. 22-2502 and re-  
11 pealing the existing section.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 22-2502 is hereby amended to read as follows: 22-  
15 2502. (a) A search warrant shall be issued only upon the oral or written  
16 statement, including those conveyed or received by telefacsimile com-  
17 munication, of any person under oath or affirmation which states facts  
18 sufficient to show probable cause that a crime has been or is being com-  
19 mitted and which particularly describes a person, place or means of con-  
20 veyance to be searched and things to be seized. Any statement which is  
21 made orally shall be either taken down by a certified shorthand reporter,  
22 sworn to under oath and made part of the application for a search warrant,  
23 or recorded before the magistrate from whom the search warrant is re-  
24 quested and sworn to under oath. Any statement orally made shall be  
25 reduced to writing as soon thereafter as possible. If the magistrate is  
26 satisfied that grounds for the application exist or that there is probable  
27 cause to believe that they exist, the magistrate may issue a search warrant  
28 for the seizure of the following:

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

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

39 (3) Any human fetus or human corpse.

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

42 (b) Before ruling on a request for a search warrant, the magistrate  
43 may require the affiant to appear personally and may examine under oath

1 the affiant and any witnesses that the affiant may produce. Such pro-  
2 ceeding shall be taken down by a certified shorthand reporter or record-  
3 ing equipment and made part of the application for a search warrant.

4 (c) Affidavits or sworn testimony in support of the probable cause  
5 requirement of this section shall not be made available for examination  
6 without a written order of the court, except that such affidavits or testi-  
7 mony when requested shall be made available to:

8 (1) The defendant or the defendant's counsel for such disposition as  
9 either may desire; or

10 (2) *the public after the defendant waives the right to a preliminary*  
11 *examination or is bound over for trial.*

12 (d) As used in this section, telefacsimile communication means the  
13 use of electronic equipment to send or transfer a copy of an original  
14 document via telephone lines.

15 Sec. 2. K.S.A. 22-2502 is hereby repealed.

16 Sec. 3. This act shall take effect and be in force from and after its  
17 publication in the statute book.