

SB 26 - "E-Warrants"
Montana Department of Justice

CURRENT PRACTICE WITH WARRANTS

Currently in Montana the process of obtaining a search warrant can take two to five hours. Late at night and on weekends and holidays it can take considerably longer. An electronic search warrant system ("E-warrant") would create an option that would allow for this entire process to utilize current online technology to complete the entire process electronically and complete this entire process in minutes.

The total number of search warrants applied for and served in Montana in any one year is unknown, but certainly there are several hundred of them. The Department of Justice (DOJ) - Division of Criminal Investigation (DCI) Narcotics Bureau processed approximately 140-160 search warrants in 2014. This system would provide for a much more streamlined, timely, and efficient system utilizing current technology to reduce manpower hours involved and could increase opportunities, security, and efficiency.

Late night and early morning hours are the times when most DUI and drug related search warrants are required and the process can be very difficult to accomplish with the system currently in place in Montana. The current process requires that an officer develop probable cause for the search to take place, type out the application and the warrant (usually in a Word document) and then deliver those documents to a prosecutor for review. Once that is completed the officer makes any suggested changes to the warrant, prints out new copies and then attempts to locate a judge who is available to review and approve the warrant in person. Upon locating an available judge the officer hand delivers the documents to the judge who reviews and approves the document. Next, the officer swears under oath to the information, the documents are signed by the judge and the officer can then proceed to execute the warrant and complete the search.

ELECTIONIC WARRANTS (E-WARRANTS)

"E-warrants" would allow for all of this to be accomplished from any computer, laptop, patrol vehicle in-car computer (MDT), iPhone, tablet, or other comparable mobile devices. Officers could do this while remaining at an actual crime scene (DUI traffic stop or drug-crime scene). Judges and prosecutors can also review and approve these documents at each stage in the process on similar devices from their office, home, or other locations and at late hours or on weekends.

This proposed additional language to the current statues would simply make this an *option* for law enforcement, prosecutors, and judges. It would not mandate its use. If anyone involved is not comfortable using the E-warrant system they can simply opt out of using it and continue using whichever system they are most comfortable with.

This entire process is completed on various secured systems that include the latest security measures necessary to protect the confidential criminal justice information or other sensitive information contained in these documents. Password protection on each application ensures that no one but the affiant, prosecutor and judge has access to the information and that the information is kept separated and secure.

A significant benefit that this option provides to smaller law enforcement departments in the state is the ability to complete this entire process without leaving the actual crime scene. Montana's current process often requires that an officer must secure a crime scene during the entire process of applying for and

receiving a search warrant. Other officers must physically secure the scene until the investigating officer obtains a search warrant and returns to the scene. In rural areas with limited access to the courts this process can take many hours during which time off duty law enforcement personnel are often called out and paid overtime wages to secure the crime scene. With an "E-warrant" option the original officer could both secure the scene and obtain the warrant by themselves in a fraction of the time.

It is common during the execution of a search warrant for the officer to develop information that leads to the necessity of obtaining an additional search warrant or to amend the current warrant. Again, with an "E-warrant" option this could be accomplished without the officer having to ever leave the scene and repeat the cumbersome application process outlined above.

Because this is an option, the fiscal impact to any agency using it would be entirely up to them. If an agency would elect not to use this tool then obviously there would be no fiscal impact. Most law enforcement, criminal justice, and judicial agencies already have access to secure computer systems that could incorporate this additional component without cost. This bill would just add the language to the current statute to lay the groundwork for this system. At a later date options could be explored to identify existing statewide no-cost systems in Montana that might be able to support this project. Existing systems such as the Criminal Justice Information Network (CJIN), the Montana All Threat Intelligence Center (MATIC) or other secure web-based programs like Cybercop, might be some of the options.

E-WARRANTS IN UTAH AND WASHINGTON STATE

Utah developed the first E-warrant system several years ago and has had those years to modify the original model into the current system, which is extremely successful. Washington State has very recently implemented a similar process.

Here is a document from Utah which explains many of the details of their system, which is what Montana's would copy: <http://www.nascio.org/awards/nominations/2008/2008UT2-e-Warrants%20Submission%206.2.08fs1fs.pdf> .

Additional articles and resources:

<http://www.policegrantshelp.com/technology/1769302-Utah-cops-praise-electronic-warrant-system/>

<http://www.deseretnews.com/article/700028941/Electronics-ease-warrant-process-for-Utah-police.html?pg=all>