

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 442

INTRODUCER: Senator Yarborough

SUBJECT: Return of Certain Search Warrants

DATE: January 23, 2025 REVISED: 1/27/26 _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Cellon</u>	<u>Stokes</u>	<u>CJ</u>	<u>Favorable</u>
2. _____	_____	<u>JU</u>	_____
3. _____	_____	<u>RC</u>	_____

I. Summary:

SB 442 amends s. 933.05, F.S., to extend the time from 45 days to 365 days within which a search warrant for a computer, computer system, or an electronic device must be returned to the court.

The bill is not likely to have a fiscal impact. See Section V., Fiscal Impact Statement.

The bill becomes effective July 1, 2026.

II. Present Situation:

Digital Evidence

Law enforcement agencies can glean a lot of information from a criminal suspect's computer, computer system, and electronic devices.¹ The Florida Department of Law Enforcement (FDLE) uses specialized tools and techniques to recover data from electronic devices used or involved in criminal cases. From laptops and cell phones to gaming consoles and Internet of Things (IoT) devices, an increasing number and variety of gadgets are being used by both victims and perpetrators of crimes. Collectively, this information can provide significant insight into the events and activity associated with a particular crime or incident. Digital Evidence analysts use advanced forensic tools and techniques to retrieve data, frequently encountering and overcoming such challenges as: encryption and passcodes, damaged and corroded devices, and deleted data recovery.²

¹ Section 815.03, F.S.

² *Digital and Multimedia Evidence*, Forensics Disciplines, FDLE, available at <https://www.fdle.state.fl.us/Forensics/Disciplines/Digital-Evidence>, (last viewed January 13, 2026).

Law enforcement officials cite strong, end-to-end encryption, or what they have called warrant-proof encryption, as preventing lawful access to certain data. Companies employing such strong encryption have stressed they do not hold encryption keys. This means they may not be readily able to unlock, or decrypt, the devices or communications—not even for law enforcement presenting an authorized search warrant or wiretap order.³

Various factors can affect law enforcement's efforts to gain access to a device and its contents. For instance, law enforcement attempting to unlock a device with brute force would likely use software to try every possible combination of keys in an attempt to unlock the device. The success of this method may depend, among other things, on the amount of time available to try and unlock a device.⁴

Search and Seizure Process

Section 933.04, F.S., states “the right of the people to be secure in their persons, houses, papers and effects against unreasonable seizures and searches shall not be violated and no search warrant shall be issued except upon probable cause, supported by oath or affirmation particularly describing the place to be searched and the person and thing to be seized.”⁵

Upon proper affidavits being made, a search warrant may be issued under the provisions of ch. 933, F.S., upon any of the following grounds:

- When the property was stolen or embezzled in violation of law;
- When any property was used:
 - As a means to commit any crime;
 - In connection with gambling, gambling implements and appliances; or
 - In violation of s. 847.011, F.S., or other laws in reference to obscene prints and literature;
- When any property constitutes evidence relevant to proving that a felony has been committed; and
- When any property is being held or possessed in violation of:
 - Any of the laws prohibiting the manufacture, sale, and transportation of intoxicating liquors;
 - The fish and game laws;
 - The laws relative to food and drug; or
 - The laws relative to citrus disease pursuant to s. 581.184, F.S.; or
- When the laws in relation to cruelty to animals, as provided in ch. 828, F.S., have been or are violated in any particular building or place.

This section also applies to any papers or documents used as a means of or in aid of the commission of any offense against the laws of the state.⁶

³ “Law Enforcement and Technology: The “Lawful Access” Debate”, Kristin Finklea, Specialist in Domestic Security, Congressional Research Service, available at

https://www.congress.gov/crs_external_products/IF/PDF/IF11769/IF11769.3.pdf (last viewed January 13, 2026).

⁴ *Id.*

⁵ Section 933.04, F.S. This section of the Florida Statutes is nearly identical to the Fourth Amendment of the U.S. Constitution, which must also be followed in matters related to search and seizure and privacy. The Fourth Amendment to the U.S. Constitution.

⁶ Section 933.02, F.S.

A search warrant cannot be issued except:

- Upon probable cause supported by affidavit or affidavits;
- Naming or describing the person, place, or thing to be searched and particularly describing the property or thing to be seized;
- No search warrant shall be issued in blank, and any such warrant shall be returned within 10 days after issuance thereof;
- Except that a search warrant issued for a computer, a computer system, or an electronic device, that is in the actual possession of a law enforcement agency at the time such warrant is issued, shall be returned to the court within 45 days after issuance thereof.⁷

Section 933.05, F.S., was amended by the Legislature during the 2025 Session to increase the time frame from 10 to 45 days within which a search warrant for a computer, a computer system, or an electronic device must be returned to the court.⁸ At the time the search warrant for the computer, computer system, or electronic device is issued by the court, the property must be in the actual possession of a law enforcement agency.

III. Effect of Proposed Changes:

SB 442 amends s. 933.05, F.S., to give a law enforcement agency up to 365 days to return a search warrant to the court for a computer, a computer system, or an electronic device. The computer, computer system, or electronic device must be in the actual possession of a law enforcement agency *at the time such search warrant is issued* in order for the 365 day return date to apply.

The bill takes effect on July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁷ Section 933.05, F.S.

⁸ Ch. 2025-176, s. 7.; note that other search warrants must be returned within 10 days of the warrant's issue date.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may not have a fiscal impact on local law enforcement agencies unless the bill results in law enforcement agencies storing the computers, computer systems, and electronic devices until such time as secure storage becomes less available for other items, and secure storage will have to be increased.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 933.05.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.