

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 Judiciary

BILL: SB 442

INTRODUCER: Senator Yarborough

SUBJECT: Return of Certain Search Warrants

DATE: February 9, 2026 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Cellon</u>	<u>Stokes</u>	<u>CJ</u>	Favorable
2. <u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Favorable
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 computer, computer system, or electronic device must be in the actual possession of a law enforcement agency when the search warrant is issued.

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:

Search Warrant

A search warrant is a written order issued by a judge that authorizes a law enforcement officer to search a specific place and seize evidence.¹ A warrant may not be issued unless the person seeking the warrant demonstrates in an affidavit that probable cause exists to believe that the evidence sought will aid in apprehending someone for a particular offense. The warrant must describe with particularity the place that is to be searched and the items to be seized.²

Digital Evidence

Law enforcement agencies can glean a lot of information from a criminal suspect's computer, computer system, and electronic devices.³ The Florida Department of Law Enforcement (FDLE) relies on specialized tools and techniques to recover data from electronic devices that have been

¹ BLACK'S LAW DICTIONARY (12th ed. 2024).

² Section 933.05, F.S., and 14A Fla. Jur 2d Criminal Law – Procedure: Pretrial Matters s. 657.

³ Section 815.03, F.S., provides definitions for these terms.

used or involved in criminal cases. An increasing number of devices and gadgets, including laptops, cell phones, gaming consoles, and Internet of Things (IoT),⁴ are being used by both victims and perpetrators of crimes. The digital evidence gathered from these devices, such as web browser history, location data, text messages, and call records can provide significant insight into the events and activities surrounding a particular crime or incident. Digital evidence analysts rely on advanced forensic tools and techniques to retrieve and extract data; however, they frequently encounter the challenges created by encryption and passcodes, damaged and corroded devices, and deleted data recovery.⁵

Law enforcement officials point out that strong, end-to-end encryption on devices, or what they have called “warrant-proof encryption,” prevents them from gaining lawful access to certain data. Companies that employ such strong encryption have emphasized that they do not hold encryption keys. The practical effect is that they may not be readily able to unlock, or decrypt, the devices or communications—even if a law enforcement officer presents an authorized search warrant or wiretap order.⁶

A law enforcement agency’s efforts to gain access to a device or its content may be affected by several factors. For example, if a law enforcement agency attempts to unlock a device it would likely use software to try multiple combinations of keys in an effort to unlock the device. The agency’s success may depend, however, on the amount of time available to try and unlock the device.⁷

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.”⁸ Similarly, the State Constitution provides this same guarantee but adds the provision that this right extends to the people “against the unreasonable interception of private communications by any means.”⁹

When proper affidavits are 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;

⁴ “Internet of Things” is described as a network of devices that are interrelated and connect and exchange data with similar devices and the cloud. The devices are generally embedded with various forms of technology which might include sensors and software. Alexander S. Gillis and Kinza Yasar, TechTarget Network, *What is IoT (internet of things)?* (July 21, 2025) <https://www.techtarget.com/iotagenda/definition/Internet-of-Things-IoT>.

⁵ *Digital and Multimedia Evidence*, Forensics Disciplines, FDLE, available at <https://www.fdle.state.fl.us/Forensics/Disciplines/Digital-Evidence>, (last viewed February 3, 2026).

⁶ Kristin Finklea, Congressional Research Service, *Law Enforcement and Technology: The “Lawful Access” Debate* (Jan. 16, 2024) https://www.congress.gov/crs_external_products/IF/PDF/IF11769/IF11769.3.pdf.

⁷ *Id.*

⁸ 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. See U.S. CONST. amend. IV.

⁹ FLA. CONST. art. I, s. 12.

- 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 related 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 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.¹⁰

A search warrant cannot be issued:

- Except upon probable cause supported by an affidavit or affidavits naming or describing the person, place, or thing to be searched and particularly describing the property or thing to be seized.
- In blank.

Any search warrant must be returned within 10 days after it is issued; however, 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 the warrant is issued, must be returned to the court within 45 days after issuance thereof.¹¹

Search Warrant Litigation and 2025 Legislation

A defendant was suspected of possessing child pornography in Manatee County in 2020. The sheriff's office seized his two mobile phones, a tablet, and a laptop. The detectives later applied for search warrants, one of which was for a forensic search of the devices. The circuit court issued the search warrant in July but one of the detectives working on the case admitted that the warrant was not executed until sometime in September, long past the 10 day period. The defendant moved to suppress the evidence but the circuit court rejected his argument finding that he had not been prejudiced by the time delay. On appeal, the Second District Court of Appeal noted that "the legislature has decided that ten days is a reasonable time" and that the language had been in place for over a century. The court reversed the judgment and sentences of the lower court and remanded the case for dismissal of the charges.¹²

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,

¹⁰ Section 933.02, F.S.

¹¹ Section 933.05, F.S.

¹² *Moschella v. State*, 413 So. 3d 851 (Fla. 2d DCA 2025).

or an electronic device must be returned to the court.¹³ 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* 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.

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.

¹³ Ch. 2025-176, s. 7, Laws of Fla. Note that other search warrants must be returned within 10 days of the warrant's issue date.

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 s. 933.05 of the Florida Statutes.

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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
