

2022 Regular Session

HOUSE BILL NO. 361

BY REPRESENTATIVE MARINO

CRIMINAL/PROCEDURE: Provides relative to search warrants for medical records

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Articles 161(A)(introductory paragraph)  
3 and 163(C) and to enact Code of Criminal Procedure Article 163.2, relative to search  
4 warrants; to provide relative to search warrants for medical records; to authorize the  
5 issuance of a search warrant for medical records of any person; to provide for  
6 procedures for the execution of such warrants; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Articles 161(A)(introductory paragraph) and  
9 163(C) are hereby amended and reenacted and Code of Criminal Procedure Article 163.2 is  
10 hereby enacted to read as follows:

11 Art. 161. Property subject to seizure

12 A. Except as authorized by Article 163.1 or 163.2, a judge may issue a  
13 warrant authorizing the search for and seizure of any thing within the territorial  
14 jurisdiction of the court which:

15 \* \* \*

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

17 \* \* \*

18 C. Except as authorized by Article 163.1 or 163.2, or as otherwise provided  
19 in this Article, or as otherwise provided by law, a search warrant cannot be lawfully  
20 executed after the expiration of the tenth day after its issuance.

21 \* \* \*

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1        Art. 163.2. Search warrant for medical records

2                A. A judge may issue a search warrant authorizing the search for and seizure  
3        of the medical records of any person.

4                B. The warrant may be issued by a judge of either the court of territorial  
5        jurisdiction where the investigation for the medical records is being conducted or the  
6        court of territorial jurisdiction where the custodian of the medical records may be  
7        found. The warrant may be executed in any place the medical records may be found  
8        and shall be directed to any peace officer who shall obtain and distribute the medical  
9        records as directed in the warrant.

10               C. A warrant issued pursuant to this Article remains in effect for one  
11        hundred eighty days after its issuance.

12               D.(1) Any examination of any medical records seized pursuant to the  
13        provisions of this Article shall be at the direction of the attorney general, the district  
14        attorney, or the investigating agency.

15               (2) Notwithstanding any other provision of law to the contrary, any  
16        examination of the medical records may be conducted at any time before or during  
17        the pendency of any criminal proceeding in which the medical records may be used  
18        as evidence.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 361 Reengrossed

2022 Regular Session

Marino

**Abstract:** Provides relative to the search for and seizure of medical records.

Present law (C.Cr.P. Art. 161) authorizes a judge, except as provided in present law, to issue a warrant authorizing the search for and seizure of anything within the territorial jurisdiction of the court which:

- (1) Has been the subject of theft.
- (2) Is intended for use or has been used as a means of committing an offense.
- (3) May constitute evidence tending to prove the commission of an offense.

Proposed law retains present law and adds an exception for a judge to issue a search warrant for medical records outside of the territorial jurisdiction of the court.

Present law (C.Cr.P. Art. 163) provides that a search warrant cannot be lawfully executed after the expiration of the 10th day after its issuance, unless authorized by present law.

Proposed law adds an exception to present law for search warrants for medical records.

Proposed law authorizes a judge to issue a search warrant for the search for and seizure of medical records of any person. Provides that the warrant may be issued by a judge of either the court of territorial jurisdiction where the investigation for the medical records is being conducted or the court of territorial jurisdiction where the custodian of the medical records may be found. The warrant may be executed in any place the medical records may be found and shall be directed to any peace officer who shall obtain and distribute the medical records as directed in the warrant.

Proposed law provides that a search warrant for medical records remains in effect for 180 days after its issuance.

Proposed law provides that any examination of any medical records seized pursuant to proposed law shall be at the direction of the attorney general, the district attorney, or the investigating agency. Further provides that any examination of the medical records may be conducted at any time before or during the pendency of any criminal proceeding in which the medical records may be used as evidence.

(Amends C.Cr.P. Arts. 161(A)(intro. para.) and 163(C); Adds C.Cr.P. Art. 163.2)

#### Summary of Amendments Adopted by House

##### The House Floor Amendments to the engrossed bill:

1. Make technical corrections.