§ 690.35 Search warrants; the application.

1. An application for a search warrant may be in writing or oral. If in writing, it must be made, subscribed and sworn to by a public servant specified in subdivision one of section 690.05. If oral, it must be made by such a public servant and sworn to and recorded in the manner provided in section 690.36.

2. The application shall be made to:

(a) A local criminal court, as defined in section 10.10 of this chapter, having preliminary jurisdiction over the underlying offense, or geographical jurisdiction over the location to be searched when the search is to be made for personal property of a kind or character described in section 690.10 of this article except that:

(i) if a town court has such jurisdiction but is not available to issue the search warrant, the warrant may be issued by the local criminal court of any village within such town or, any adjoining town, village embraced in whole or in part by such adjoining town, or city of the same county;

(ii) if a village court has such jurisdiction but is not available to issue the search warrant, the warrant may be issued by the town court of the town embracing such village or any other village court within such town, or, if such town or village court is not available either, before the local criminal court of any adjoining town, village embraced in whole or in part by such adjoining town, or city of the same county; and

(iii) if a city court has such jurisdiction but is not available to issue the search warrant, the warrant may be issued by the local criminal court of any adjoining town or village, or village court embraced by an adjoining town, within the same county as such city.

(b) A local criminal court, as defined in section 10.10 of this chapter, with geographical jurisdiction over the location where the premises to be searched is located, or which issued the underlying arrest warrant, when the search warrant is sought pursuant to paragraph (b) of subdivision two of section 690.05 of this article, for the purpose of arresting a wanted person.

Any search warrant issued pursuant to this section shall be subject to

the territorial limitations provided by section 690.20 of this article.

3. The application must contain:

(a) The name of the court and the name and title of the applicant; and

(b) A statement that there is reasonable cause to believe that property of a kind or character described in section 690.10 may be found in or upon a designated or described place, vehicle or person, or, in the case of an application for a search warrant as defined in paragraph (b) of subdivision two of section 690.05, a statement that there is reasonable cause to believe that the person who is the subject of the warrant of arrest may be found in the designated premises; and

(c) Allegations of fact supporting such statement. Such allegations of fact may be based upon personal knowledge of the applicant or upon information and belief, provided that in the latter event the sources of such information and the grounds of such belief are stated. The applicant may also submit depositions of other persons containing allegations of fact supporting or tending to support those contained in the application; and

(d) A request that the court issue a search warrant directing a search for and seizure of the property or person in question; and

(e) In the case of an application for a search warrant as defined in paragraph (b) of subdivision two of section 690.05, a copy of the warrant of arrest and the underlying accusatory instrument.

4. The application may also contain:

(a) A request that the search warrant be made executable at any time of the day or night, upon the ground that there is reasonable cause to believe that (i) it cannot be executed between the hours of 6:00 A.M. and 9:00 P.M., or (ii) the property sought will be removed or destroyed if not seized forthwith, or (iii) in the case of an application for a search warrant as defined in paragraph (b) of subdivision two of section 690.05, the person sought is likely to flee or commit another crime, or may endanger the safety of the executing police officers or another person if not seized forthwith or between the hours of 9:00 P.M. and 6:00 A.M.; and

(b) A request that the search warrant authorize the executing police officer to enter premises to be searched without giving notice of his

authority and purpose, upon the ground that there is reasonable cause to believe that (i) the property sought may be easily and quickly destroyed or disposed of, or (ii) the giving of such notice may endanger the life or safety of the executing officer or another person, or (iii) in the case of an application for a search warrant as defined in paragraph (b) of subdivision two of section 690.05 for the purpose of searching for and arresting a person who is the subject of a warrant for a felony, the person sought is likely to commit another felony, or may endanger the life or safety of the executing officer or another person.

Any request made pursuant to this subdivision must be accompanied and supported by allegations of fact of a kind prescribed in paragraph (c) of subdivision two.