WEST VIRGINIA CODE: §62-1F-3

§62-1F-3. Application for an order authorizing interception.

(a) Each application for an order authorizing electronic interception in accordance with the provisions of this article shall be made only to the magistrate or judge of the circuit court by petition in writing upon oath or affirmation and shall state the applicant's authority to make the application. Each application shall set forth the following:

(1) The identity of the investigative or law-enforcement officer making the application, and of the person authorizing the application, who shall be the head of the investigative or law-enforcement agency or an officer of the investigative or law-enforcement agency designated in writing by the head of that agency: Provided, That an application made by a member of the State Police or an officer assigned to a multijurisdictional task force authorized under section four, article ten, chapter fifteen of this code also may be authorized by the supervisor of that member or officer if the supervisor holds a rank of sergeant or higher;

(2) A full and complete statement of the facts and circumstances relied upon by the applicant, to justify his or her belief that an order should be issued, including (i) details as to the particular offense that has been, is being, or is about to be committed, (ii) a description of the person whose conduct or communications are sought to be intercepted and a particular description of the home at which it is anticipated that the interception would occur: Provided, That the description of the home may be omitted where there is good cause to believe that the location is subject to change, (iii) a particular description of the type of conduct or communications sought to be intercepted, and (iv) the identity of the person, if known, committing the offense and whose conduct or communications are to be intercepted;

(3) A statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described conduct or communication has been first obtained, a particular description of facts establishing probable cause to believe additional conduct or communications of the same type will occur thereafter; and

(4) Where the application is for the extension of an order, a statement setting forth the results obtained pursuant to such order from the interception or a reasonable explanation of the failure to obtain any such results.

(b) The magistrate or judge of the circuit court may require the applicant to furnish additional testimony or documentary evidence in support of the application.

(c) Notwithstanding the provisions of subsection (a) of this section, the magistrate or judge may take an oral statement under oath in which the applicant must set forth the information required in subsection (a) of this section. The applicant shall swear the oath by telephone. A magistrate or judge administering an oath telephonically under this subsection shall execute

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a declaration that recites the manner and time of the oath's administration. The oral statement shall be recorded. The recording shall be considered to be an application for the purposes of this section. In such cases, the recording of the sworn oral statement and the transcribed statement shall be certified by the magistrate or judge receiving it and shall be retained as a part of the record of proceedings for the issuance of the order.

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