



KYLE CLARK - CHAIR

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## Model Language

### **Allowing for Issuance of Warrants for Evidence of Violation of Driving Under the Influence (DUI) and Boating Under the Influence (BUI)**

#### Existing Florida Statute

**933.02 Grounds for issuance of search warrant.**—Upon proper affidavits being made, a search warrant may be issued under the provisions of this chapter upon any of the following grounds:

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

#### Limitations of Existing Florida Statute

Existing language in section 933.02 Florida Statutes, does not reference blood draws relevant to proving a motor vehicle or boat operator was intoxicated as grounds for issuance of a search warrant. Without this reference, it is often difficult for an officer to obtain a search warrant allowing him/her to take a blood sample for the purpose of testing an offender's level of intoxication when a field sobriety test or breath test are not sufficient or appropriate.

## Proposed Model Legislative Language

Note: New language is underlined and deleted language is shown by a ~~strikethrough~~.

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  - (b) In violation of the fish and game laws;
  - (c) In violation of the laws relative to food and drug; or
  - (d) In violation of the laws relative to citrus disease pursuant to s. 581.184; or
- (5) When the laws in relation to cruelty to animals, as provided in chapter 828, have been or are violated in any particular building or place.
- (6) When a sample of the blood of a person constitutes evidence relevant to providing that a violation of s. 316.193 or s. 327.35 has been committed.

## Rationale for Model Language Adjustment

The addition of section 933.02(6) to existing language adds a reference to blood draws relevant to proving a motor vehicle or boat operator was intoxicated as ground for issuance of a search warrant. This addition will allow officers to more easily and reliably use blood draws as an alternative method to breath and field sobriety tests when the latter are not sufficient or inappropriate.