

SENATE BILL NO. 1120

November 14, 2024, Introduced by Senators SHINK, POLEHANKI and CAVANAGH and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1966 PA 189, entitled

"An act to provide procedures for making complaints for, obtaining, executing and returning search warrants; and to repeal certain acts and parts of acts,"

by amending section 1 (MCL 780.651), as amended by 2014 PA 383.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) ~~When~~**If** an affidavit **that establishes grounds to**
2 **issue a warrant under this act** is made ~~on~~**under** oath **or affirmation**
3 to a judge or district court magistrate authorized to issue
4 warrants in criminal cases ~~, and the affidavit establishes grounds~~
5 ~~for issuing a warrant under this act,~~**and** the judge or district

1 court magistrate ~~, if he or she~~ is satisfied that there is probable
2 cause for the search, **the judge or district court magistrate** shall
3 issue a warrant to search the house, building, or other location or
4 place where the person, property, or thing to be searched for and
5 seized is situated.

6 **(2) A warrant issued under subsection (1) for papers,**
7 **documents, records, or other things may be issued to a recipient**
8 **regardless of whether the recipient or the papers, documents,**
9 **records, or things are located in this state if all of the**
10 **following requirements are met, as applicable:**

11 **(a) The court has probable jurisdiction over the criminal**
12 **matter under investigation.**

13 **(b) The exercise of jurisdiction is not inconsistent with the**
14 **state constitution of 1963 or the Constitution of the United**
15 **States.**

16 **(c) The warrant and process comply with section 2703(b) of the**
17 **stored communications act, 18 USC 2703.**

18 **(3) ~~(2)~~**An affidavit for a search warrant may be made by any
19 electronic or electromagnetic means of communication, including by
20 facsimile or over a computer network, if both of the following
21 occur:

22 **(a) The judge or district court magistrate orally administers**
23 **the oath or affirmation to an applicant for a search warrant who**
24 **submits an affidavit under this subsection.**

25 **(b) The affiant signs the affidavit. Proof that the affiant**
26 **has signed the affidavit may consist of an electronically or**
27 **electromagnetically transmitted facsimile of the signed affidavit**
28 **or an electronic signature on an affidavit transmitted over a**
29 **computer network.**

1 **(4)** ~~(3)~~—A judge or district court magistrate may issue a
2 written search warrant in person or by any electronic or
3 electromagnetic means of communication, including by facsimile or
4 over a computer network.

5 **(5)** ~~(4)~~—A judge or district court magistrate may sign an
6 electronically issued search warrant ~~when he or she is at~~ **from** any
7 location in this state.

8 **(6)** ~~(5)~~—The peace officer or department receiving an
9 electronically or electromagnetically issued search warrant ~~shall~~
10 **must** receive proof that the issuing judge or district court
11 magistrate has signed the warrant before the warrant is executed.
12 Proof that the issuing judge or district court magistrate has
13 signed the warrant may consist of an electronically or
14 electromagnetically transmitted facsimile of the signed warrant or
15 an electronic signature on a warrant transmitted over a computer
16 network.

17 **(7)** ~~(6)~~—If an oath or affirmation is orally administered by
18 electronic or electromagnetic means of communication under this
19 section, the oath or affirmation is considered to be administered
20 before the judge or district court magistrate.

21 **(8)** ~~(7)~~—If an affidavit for a search warrant is submitted by
22 electronic or electromagnetic means of communication, or a search
23 warrant is issued by electronic or electromagnetic means of
24 communication, the transmitted copies of the affidavit or search
25 warrant are duplicate originals of the affidavit or search warrant
26 and are not required to contain an impression made by an impression
27 seal.

28 **(9)** ~~(8)~~—Except as provided in subsection ~~(9)~~, **(10)**, an
29 affidavit for a search warrant contained in any court file or court

1 record retention system is nonpublic information.

2 **(10)** ~~(9)~~—On the fifty-sixth day following the issuance of a
3 search warrant, the search warrant affidavit contained in any court
4 file or court record retention system is public information unless,
5 before the fifty-sixth day after the search warrant is issued, a
6 peace officer or prosecuting attorney obtains a suppression order
7 from a judge or district court magistrate upon a showing under oath
8 **or affirmation** that suppression of the affidavit is necessary to
9 protect an ongoing investigation or the privacy or safety of a
10 victim or witness. The suppression order may be obtained ex parte
11 in the same manner that the search warrant was issued. An initial
12 suppression order issued under this subsection expires on the
13 fifty-sixth day after the order is issued. A second or subsequent
14 suppression order may be obtained in the same manner as the initial
15 suppression order and ~~shall expire~~ **expires** on a date specified in
16 the order. This subsection and subsection ~~(8)~~ **(9)** do not affect a
17 person's right to obtain a copy of a search warrant affidavit from
18 the prosecuting attorney or law enforcement agency under the
19 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

20 Enacting section 1. This amendatory act takes effect 90 days
21 after the date it is enacted into law.