

HOUSE BILL No. 6209

November 8, 1990, Introduced by Rep. Bandstra and referred to the Committee on Judiciary.

A bill to amend sections 1 and 4 of Act No. 189 of the Public Acts of 1966, 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,"

section 1 as amended by Act No. 43 of the Public Acts of 1990, being sections 780.651 and 780.654 of the Michigan Compiled Laws; and to add section 2a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1 and 4 of Act No. 189 of the Public
2 Acts of 1966, section 1 as amended by Act No. 43 of the Public
3 Acts of 1990, being sections 780.651 and 780.654 of the Michigan
4 Compiled Laws, are amended and section 2a is added to read as
5 follows:

6 Sec. 1. (1) When an affidavit is made on oath to a
7 magistrate authorized to issue warrants in criminal cases, and

1 the affidavit establishes grounds for issuing a warrant pursuant
2 to this act, the magistrate, if he or she is satisfied that there
3 is probable cause for the search, shall issue a warrant to search
4 the house, building, or other location or place where the
5 property, ~~or~~ thing, OR INDIVIDUAL to be searched for and seized
6 is situated.

7 (2) An affidavit for a search warrant may be made by any
8 electronic or electromagnetic means of communication if both of
9 the following occur:

10 (a) The judge or district court magistrate orally adminis-
11 ters the oath or affirmation to an applicant for a search warrant
12 who submits an affidavit under this subsection.

13 (b) The affiant signs the affidavit. Proof that the affiant
14 has signed the affidavit may consist of an electronically or
15 electromagnetically transmitted facsimile of the signed
16 affidavit.

17 (3) A judge may issue a written search warrant in person or
18 by any electronic or electromagnetic means of communication. If
19 a court order required pursuant to section 625a of the Michigan
20 vehicle code, Act No. 300 of the Public Acts of 1949, being sec-
21 tion 257.625a of the Michigan Compiled Laws, is issued as a
22 search warrant, the written search warrant may be issued in
23 person or by any electronic or electromagnetic means of communi-
24 cation by a judge or by a district court magistrate.

25 (4) The peace officer or department receiving an electroni-
26 cally or electromagnetically issued search warrant shall receive
27 proof that the issuing judge or district court magistrate has

1 signed the warrant before the warrant is executed. Proof that
2 the issuing judge or district court magistrate has signed the
3 warrant may consist of an electronically or electromagnetically
4 transmitted facsimile of the signed warrant.

5 (5) The state court administrator shall establish paper
6 quality and durability standards for warrants issued under this
7 section.

8 (6) If an oath or affirmation is orally administered by
9 electronic or electromagnetic means of communication under this
10 section, the oath or affirmation is considered to be administered
11 before the judge or district court magistrate.

12 (7) If an affidavit for a search warrant is submitted by
13 electronic or electromagnetic means of communication, or a search
14 warrant is issued by electronic or electromagnetic means of com-
15 munication, the transmitted copies of the affidavit or search
16 warrant are duplicate originals of the affidavit or search war-
17 rant and are not required to contain an impression made by an
18 impression seal.

19 SEC. 2A. (1) IF A MAGISTRATE DETERMINES THAT THERE IS PROB-
20 ABLE CAUSE TO BELIEVE THAT AN INDIVIDUAL COMMITTED A CRIME, A
21 WARRANT MAY BE ISSUED TO SEARCH FOR AND SEIZE THAT INDIVIDUAL FOR
22 THE PURPOSE OF AN IDENTIFICATION LINEUP.

23 (2) AN INDIVIDUAL SEIZED PURSUANT TO A WARRANT ISSUED UNDER
24 THIS SECTION MAY BE HELD IN CUSTODY FOR NOT MORE THAN 12 HOURS
25 UNLESS THE INDIVIDUAL IS CHARGED WITH COMMITTING A CRIME.

26 Sec. 4. A search warrant shall be directed to the sheriff
27 or ~~any~~ A peace officer, commanding ~~such~~ THE SHERIFF OR PEACE

1 officer to search the house, building, or other location or
2 place, where any property, ~~or other~~ thing, ~~for which~~ OR INDIV-
3 VIDUAL THAT he OR SHE is required to search FOR is believed to be
4 concealed. Each warrant shall designate and describe the house
5 or building or other location or place to be searched and the
6 property, ~~or~~ thing, OR INDIVIDUAL to be seized. The warrant
7 shall also state the grounds, ~~or~~ the probable CAUSE, or reason-
8 able cause for its issuance ~~,~~ or ~~in lieu thereof,~~ a copy of
9 the affidavit may be attached ~~thereto~~ TO THE WARRANT.