

HOUSE BILL No. 4759

May 1, 1991, Introduced by Reps. Yokich, Baade, Olshove, Hertel, Weeks, Byrum, Dobronski, Palamara, DeMars, Jacobetti, Gagliardi and Gire and referred to the Committee on Judiciary.

A bill to amend the title 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,"

as amended, being sections 780.651 to 780.659 of the Michigan Compiled Laws; to add section 6a; and to repeal certain parts of the act on a specific date.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title of Act No. 189 of the Public Acts of
2 1966, as amended, being sections 780.651 to 780.659 of the
3 Michigan Compiled Laws, is amended and section 6a is added to
4 read as follows:

TITLE

1

2 An act to provide procedures for making complaints for
3 SEARCH WARRANTS, AND FOR obtaining, executing, and returning
4 search warrants; ~~and~~ to repeal certain acts and parts of acts;
5 AND TO REPEAL CERTAIN PARTS OF THIS ACT ON A SPECIFIC DATE.

6 SEC. 6A. (1) NOTWITHSTANDING SECTION 6, IN ORDER TO EXECUTE
7 A WARRANT AN OFFICER MAY ENTER A HOUSE OR BUILDING IMMEDIATELY,
8 WITHOUT GIVING NOTICE OF THE OFFICER'S PURPOSE OR WAITING UNTIL
9 ADMITTANCE IS REFUSED, IF ALL OF THE FOLLOWING APPLY:

10 (A) THE WARRANT EXPRESSLY AUTHORIZES THE OFFICER TO DO SO.

11 (B) THE WARRANT AUTHORIZES THE SEIZURE OF EVIDENCE OF A
12 FELONY VIOLATION OF SECTION 7401 OR 7403 OF THE PUBLIC HEALTH
13 CODE, ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SECTIONS
14 333.7401 AND 333.7403 OF THE MICHIGAN COMPILED LAWS.

15 (C) THE WARRANT IS ISSUED BY A JUDGE OF THE DISTRICT COURT
16 OR A JUDGE OF A MUNICIPAL COURT, AND NOT BY A DISTRICT COURT MAG-
17 ISTRATE APPOINTED UNDER CHAPTER 85 OF THE REVISED JUDICATURE ACT
18 OF 1961, ACT NO. 236 OF THE PUBLIC ACTS OF 1961, BEING SECTIONS
19 600.8501 TO 600.8555 OF THE MICHIGAN COMPILED LAWS.

20 (D) THE AFFIDAVIT SPECIFICALLY ALLEGES AND THE JUDGE DETER-
21 MINES, BASED ON FACTS RELATED WITHIN THE AFFIDAVIT, THAT THE
22 SAFETY OF THE OFFICER EXECUTING THE WARRANT OR THE SAFETY OF
23 ANOTHER PERSON MAY BE JEOPARDIZED BY ANY DELAY IN EXECUTING THE
24 WARRANT.

25 (E) THE EXIGENT CIRCUMSTANCES DESCRIBED IN THE AFFIDAVIT AND
26 WARRANT EXIST AT THE TIME THE WARRANT IS SERVED OR OTHER EXIGENT

1 CIRCUMSTANCES EXIST THAT JUSTIFY THE ENTRY WITHOUT NOTICE OR
2 WAITING UNTIL ADMITTANCE IS REFUSED.

3 (2) IF AN OFFICER DAMAGES A HOUSE OR BUILDING OR ITS CON-
4 TENTS IN EXECUTING A WARRANT PURSUANT TO SUBSECTION (1), THE UNIT
5 OF GOVERNMENT THAT EMPLOYS THE OFFICER SHALL BE LIABLE TO THE
6 OWNER OF THE PROPERTY FOR THE DAMAGE, IF NONE OF THE PROPERTY OR
7 THINGS DESIGNATED IN THE WARRANT ARE OBTAINED AS A RESULT OF THE
8 EXECUTION OF THE WARRANT.

9 (3) A JUDGE TO WHOM AN AFFIDAVIT IS MADE FOR A WARRANT
10 DESCRIBED IN SUBSECTION (1) SHALL FORWARD TO THE DEPARTMENT OF
11 MANAGEMENT AND BUDGET A COPY OF THE AFFIDAVIT AND THE SEARCH WAR-
12 RANT AT THE TIME OF SIGNING.

13 (4) THIS SECTION IS REPEALED EFFECTIVE UPON THE EXPIRATION
14 OF 3 YEARS FOLLOWING ITS EFFECTIVE DATE.