

HOUSE BILL No. 5544

February 20, 1992, Introduced by Reps. Gire, Anthony, Clack, Weeks, Yokich, Olshove, Baade, Harder, Dobronski, Perry Bullard, Saunders, Brown, Johnson, Bankes, Dobb, Dolan, Goss, Munsell, Martin, Fitzgerald, DeBeaussaert, Berman, Bandstra, Kosteva, Kilpatrick, Murphy, Joe Young, Jr., Barns, Hickner, Joe Young, Sr., Stallworth and Gubow and referred to the Committee on Judiciary.

A bill to amend section 1a of chapter IV of Act No. 175 of the Public Acts of 1927, entitled as amended

"The code of criminal procedure,"

as added by Act No. 506 of the Public Acts of 1980, being section 764.1a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 1a of chapter IV of Act No. 175 of the
2 Public Acts of 1927, as added by Act No. 506 of the Public Acts
3 of 1980, being section 764.1a of the Michigan Compiled Laws, is
4 amended to read as follows:

5 CHAPTER IV

6 Sec. 1a. (1) A magistrate shall issue a warrant upon pre-
7 sentation of a proper complaint alleging the commission of an
8 offense and a finding of reasonable cause to believe that the

1 person accused in the complaint committed that offense. The
2 complaint shall be sworn to before a magistrate or clerk.

3 (2) The finding of reasonable cause by the magistrate may be
4 based upon 1 or more of the following:

5 (a) Factual allegations of the complainant contained in the
6 complaint.

7 (b) The complainant's sworn testimony.

8 (c) The complainant's affidavit.

9 (d) Any supplemental sworn testimony or affidavits of other
10 persons presented by the complainant or required by the
11 magistrate.

12 (3) The magistrate may require sworn testimony of the com-
13 plainant or other persons. Supplemental affidavits may be sworn
14 to before a person authorized by law to administer oaths. The
15 factual allegations contained in the complaint, testimony, or
16 affidavits may be based upon personal knowledge, information and
17 belief, or both.

18 (4) THE MAGISTRATE SHALL NOT REFUSE TO ACCEPT A COMPLAINT
19 ALLEGING A VIOLATION OF SECTION 81 OR 81A OF THE MICHIGAN PENAL
20 CODE, ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS
21 750.81 AND 750.81A OF THE MICHIGAN COMPILED LAWS, BY THE SPOUSE
22 OF THE VICTIM, A FORMER SPOUSE OF THE VICTIM, OR A PERSON RESID-
23 ING OR HAVING RESIDED IN THE SAME HOUSEHOLD AS THE VICTIM ON
24 GROUNDS THAT THE COMPLAINT IS SIGNED UPON INFORMATION AND BELIEF
25 BY A PERSON OTHER THAN THE VICTIM.

1 (5) ~~(4)~~ A warrant may be issued under this section only
2 upon compliance with the requirements of section 1 of this
3 chapter.

4 Section 2. This amendatory act shall not take effect unless
5 all of the following bills of the 86th Legislature are enacted
6 into law:

7 (a) Senate Bill No. ____ or House Bill No. 5549 (request
8 no. 04575'91).

9 (b) Senate Bill No. ____ or House Bill No. 5551 (request
10 no. 04576'91).