

HOUSE BILL No. 5915

June 9, 1992, Introduced by Reps. London, Bartnik, Porreca, Jamian, Hoffman, Middaugh, Strand, Jaye, McBryde, Rocca, Gnodtke, Bodem, London, Bender, Horton, McNutt, Nye, Oxender, Brackenridge, Dolan, Bandstra, Middleton, Dobb, O'Connor, Goss, Gernaat, Gilmer, Shugars, Fitzgerald, Bankes, DeLange, Willis Bullard, Martin, Van Singel, Munsell, Dalman, Walberg and Bobier and referred to the Committee on Judiciary.

A bill to amend Act No. 368 of the Public Acts of 1978,
entitled as amended
"Public health code,"
as amended, being sections 333.1101 to 333.25211 of the Michigan
Compiled Laws, by adding section 7527.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 368 of the Public Acts of 1978, as
2 amended, being sections 333.1101 to 333.25211 of the Michigan
3 Compiled Laws, is amended by adding section 7527 to read as
4 follows:

5 SEC. 7527. (1) THE PROSECUTING ATTORNEY MAY MOVE IN WRITING
6 FOR AN ORDER PERMITTING THE DESTRUCTION OF ALL OR PART OF A CON-
7 TROLLED SUBSTANCE, CONTROLLED SUBSTANCE ANALOGUE, COUNTERFEIT
8 SUBSTANCE, OR IMITATION CONTROLLED SUBSTANCE SEIZED AS EVIDENCE
9 IN CONNECTION WITH A VIOLATION OF THIS ARTICLE. THE MOTION SHALL

1 SPECIFY THE REASONS SUPPORTING THE DESTRUCTION. THE PROSECUTING
2 ATTORNEY SHALL SERVE A COPY OF THE MOTION, AND ANY SUPPORTING
3 MATERIALS, ON THE DEFENDANT OR HIS OR HER ATTORNEY.

4 (2) IF THE DEFENDANT OBJECTS, THE DEFENDANT OR HIS OR HER
5 ATTORNEY SHALL FILE SPECIFIC OBJECTIONS WITHIN 20 DAYS AFTER
6 RECEIVING THE MOTION DESCRIBED IN SUBSECTION (1). A FAILURE TO
7 COMPLY WITH THIS TIME LIMIT CONSTITUTES THE WAIVER OF ANY OBJEC-
8 TION TO THE DESTRUCTION OF THE EVIDENCE.

9 (3) BEFORE ANY HEARING ON THE MOTION, THE DEFENDANT OR HIS
10 OR HER ATTORNEY SHALL HAVE AN ADEQUATE OPPORTUNITY TO INSPECT OR
11 TEST THE EVIDENCE SOUGHT TO BE DESTROYED, SUBJECT TO REASONABLE
12 SUPERVISION BY LABORATORY OR LAW ENFORCEMENT PERSONNEL.

13 (4) FOLLOWING A HEARING, THE COURT MAY ORDER DESTRUCTION OF
14 ALL OR PART OF THE CONTROLLED SUBSTANCE, CONTROLLED SUBSTANCE
15 ANALOGUE, COUNTERFEIT SUBSTANCE, OR IMITATION CONTROLLED SUB-
16 STANCE IF THE COURT DETERMINES ON THE RECORD THAT THE DESTRUCTION
17 IS WARRANTED. THE COURT SHALL SPECIFY THE EVIDENCE TO BE
18 DESTROYED AND MAY INCLUDE FURTHER PROVISIONS IN THE ORDER AS THE
19 INTERESTS OF JUSTICE REQUIRE.

20 (5) THE LAW ENFORCEMENT AGENCY HAVING CUSTODY OF THE EVI-
21 DENCE SHALL DESTROY THE CONTROLLED SUBSTANCE, CONTROLLED SUB-
22 STANCE ANALOGUE, COUNTERFEIT SUBSTANCE, OR IMITATION CONTROLLED
23 SUBSTANCE IN ACCORDANCE WITH AN ORDER ENTERED UNDER
24 SUBSECTION (4). BEFORE DESTRUCTION OF THE EVIDENCE, THE LAW
25 ENFORCEMENT AGENCY SHALL MAKE AN ACCURATE PHOTOGRAPHIC RECORD OF
26 THE CONTROLLED SUBSTANCE, CONTROLLED SUBSTANCE ANALOGUE,
27 COUNTERFEIT SUBSTANCE, OR IMITATION CONTROLLED SUBSTANCE. THE

1 COURT MAY ORDER THAT FURTHER RECORDS BE MADE BEFORE DESTRUCTION
2 OF THE EVIDENCE.