



# HOUSE BILL No. 4241

February 11, 1993, Introduced by Reps. Galloway, Llewellyn, Hoffman, Goschka, Kukuk, London, Lowe, Hill, Jamian, Hammerstrom, Weeks, Horton, Rocca, Whyman, Bullard, Bodem, Gernaat, Nye, McManus, Porreca, Dolan, Jersevic, Brackenridge, Gnodtke, Dalman, Middaugh, Gustafson, McBryde, Sikkema, Gilmer, Shugars, Martin, Johnson, Stille, Munsell, Dobb, Middleton and Fitzgerald and referred to the Committee on Judiciary.

A bill to amend sections 1, 2, 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, 780.652, and 780.654 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Section 1. Sections 1, 2, and 4 of Act No. 189 of the Public Acts of 1966, section 1 as amended by Act No. 43 of the Public Acts of 1990, being sections 780.651, 780.652, and 780.654 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 1. (1) When an affidavit is made on oath to a magistrate authorized to issue warrants in criminal cases, and the affidavit establishes grounds for issuing a warrant pursuant

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

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

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

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

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

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

1 the issuing judge or district court magistrate has signed the  
2 warrant may consist of an electronically or electromagnetically  
3 transmitted facsimile of the signed warrant.

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

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

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

18 Sec. 2. (1) A warrant may be issued to search for and seize  
19 any ~~property or other thing which is either~~ OF THE FOLLOWING:

20 (a) ~~Stolen~~ ANY PROPERTY OR OTHER THING THAT IS STOLEN or  
21 embezzled in violation of ~~any~~ A law of this state.

22 (b) ~~Designed~~ ANY PROPERTY OR OTHER THING THAT IS DESIGNED  
23 and intended for use ~~or which is or has been used as the means~~  
24 ~~of~~ IN committing a criminal offense, OR THAT IS BEING USED, OR  
25 THAT HAS BEEN USED, IN COMMITTING A CRIMINAL OFFENSE.

1       (c) ~~Possessed~~ ANY PROPERTY OR OTHER THING THAT IS  
2 POSSESSED, controlled, or used, wholly or partially, in violation  
3 of ~~any~~ A law of this state.

4       (d) ~~Evidence~~ ANY PROPERTY OR OTHER THING THAT IS EVIDENCE  
5 of A crime or EVIDENCE OF criminal conduct on the part of any  
6 person.

7       (e) ~~Contraband~~ ANY PROPERTY OR OTHER THING THAT IS  
8 CONTRABAND.

9       (f) The ~~bodies or persons of human beings~~ LIVING OR  
10 DECEASED BODY OF AN INDIVIDUAL or ~~of animals~~ ANIMAL, ~~who~~ THAT  
11 may ~~be~~ HAVE BEEN the ~~victims~~ VICTIM of a criminal offense.

12       (g) ~~The object of a search warrant~~ ANY PROPERTY OR OTHER  
13 THING THAT MAY BE SEARCHED FOR AND SEIZED under any other law of  
14 this state. ~~providing for the same.~~

15       (H) AN INDIVIDUAL FOR THE PURPOSE OF OBTAINING OR REQUIRING  
16 THE INDIVIDUAL TO PROVIDE NONTESTIMONIAL EVIDENCE, INCLUDING, BUT  
17 NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

18       (i) THE APPEARANCE OF THE INDIVIDUAL IN AN IDENTIFICATION  
19 LINEUP.

20       (ii) A PHOTOGRAPH OF THE INDIVIDUAL FOR USE IN A PHOTO-  
21 GRAPHIC IDENTIFICATION LINEUP.

22       (iii) SAMPLES OF THE INDIVIDUAL'S HAIR, BLOOD, SALIVA, OR  
23 URINE.

24       (iv) RECORDINGS OF THE INDIVIDUAL'S VOICE.

25       (v) EXAMPLES OF THE INDIVIDUAL'S HANDWRITING.

26       (2) If a conflict exists between this act and any other  
27 search warrant law, this act ~~shall be deemed~~ IS controlling.

1       Sec. 4. (1) A search warrant shall be directed to the  
2 sheriff or any peace officer, commanding ~~such~~ THAT SHERIFF OR  
3 PEACE officer to search the house, building, or other location or  
4 place, where any property, ~~or other~~ thing, OR INDIVIDUAL for  
5 which he OR SHE is required to search is believed to be  
6 concealed. Each warrant shall designate and describe the house,  
7 ~~or~~ building, or other location or place to be searched, and the  
8 property, ~~or~~ thing, OR INDIVIDUAL to be seized. The ~~warrant~~  
9 ~~shall also state the~~ grounds, ~~or the~~ probable CAUSE, or rea-  
10 sonable cause for ~~its issuance~~ ISSUING THE WARRANT SHALL BE  
11 STATED IN THE WARRANT, or in lieu ~~thereof~~ OF STATING THE  
12 GROUNDS, PROBABLE CAUSE, OR REASONABLE CAUSE IN THE WARRANT, a  
13 copy of the affidavit ~~may~~ SHALL be attached ~~thereto~~ TO THE  
14 WARRANT.

15       (2) A PERSON WHO IS SERVED A WARRANT PURSUANT TO  
16 SECTION 2(1)(H) OF THIS ACT SHALL BE INFORMED OF HIS OR HER RIGHT  
17 TO LEGAL COUNSEL WHEN THE WARRANT IS SERVED.