



HOUSE BILL No. 5787

April 23, 1996, Introduced by Reps. Jersevic, McBryde, Kaza, Horton, Goschka, Cropsey, Rocca and Perricone and referred to the Committee on Judiciary and Civil Rights.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1 and 2 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 780.652 of the Michigan
4 Compiled Laws, are amended to read as follows:

5 Sec. 1. (1) When an affidavit is made on oath to a
6 magistrate authorized to issue warrants in ~~criminal~~ cases OF A
7 VIOLATION OF A CRIMINAL LAW BY AN ADULT OR JUVENILE, and the

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

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, OR PROBATE
10 COURT REFEREE orally administers the oath or affirmation to an
11 applicant for a search warrant who submits an affidavit under
12 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, OR PRO-
25 BATE COURT REFEREE.

26 (4) The peace officer or department receiving an
27 electronically or electromagnetically issued search warrant shall

1 receive proof that the issuing judge, ~~or~~ district court
2 magistrate, OR PROBATE COURT REFEREE has signed the warrant
3 before the warrant is executed. Proof that the issuing judge,
4 ~~or~~ district court magistrate, OR PROBATE COURT REFEREE has
5 signed the warrant may consist of an electronically or electro-
6 magnetically transmitted facsimile of the signed warrant.

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

10 (6) If an oath or affirmation is orally administered by
11 electronic or electromagnetic means of communication under this
12 section, the oath or affirmation is considered to be administered
13 before the judge, ~~or~~ district court magistrate, OR PROBATE
14 COURT REFEREE.

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

22 Sec. 2. A warrant may be issued to search for and seize any
23 property or other thing which is either:

24 (a) Stolen or embezzled in violation of any law of this
25 state.

1 (b) Designed and intended for use or which is or has been
2 used as the means of ~~committing~~ VIOLATING a criminal ~~offense~~
3 LAW.

4 (c) Possessed, controlled, or used wholly or partially in
5 violation of any law of this state.

6 (d) Evidence of ~~crime or~~ A VIOLATION OF A criminal
7 ~~conduct on the part of~~ LAW BY any person.

8 (e) Contraband.

9 (f) The bodies or persons of human beings or of animals, who
10 may be the victims of a VIOLATION OF A criminal ~~offense~~ LAW.

11 (g) The object of a search warrant under any other law of
12 this state providing for the same. If a conflict exists between
13 this act and any other search warrant law, this act shall be
14 deemed controlling.

15 Section 2. This amendatory act shall not take effect unless
16 Senate Bill No. _____ or House Bill No. 5788 (request
17 no. 05329'95) of the 88th Legislature is enacted into law.