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Senate Bill 730 (Substitute S-1 as reported by the Committee of the Whole)
Sponsor: Senator Shirley Johnson
Committee: Judiciary

CONTENT

The bill would amend Public Act 189 of 1966, which provides search warrant procedures, to allow a magistrate to suppress an affidavit establishing grounds for issuing a search warrant and/or a tabulation of property seized pursuant to a search warrant. The bill also specifies that a search warrant, affidavit, or tabulation contained in any court file or record retention system would be nonpublic information.

Under the Act, a search warrant must state the grounds or the probable or reasonable cause for its issuance, or have attached to it a copy of an affidavit that established grounds for issuing the search warrant and was made on oath to a magistrate or judge. When an officer executing a search warrant finds property or seizes any of the other things for which a search warrant is allowed, the officer must make a complete tabulation of the property and things seized. The officer must give the person from whom, or from whose premises, the property was taken a copy of the warrant and a copy of the tabulation, or leave a copy of the warrant and the tabulation at the place from which the property or thing was taken.

Under the bill, upon a showing that it was necessary to protect an ongoing investigation or the privacy or safety of a victim or witness, the magistrate who issued a search warrant could order that an affidavit and/or tabulation be suppressed and not given to the person whose property was seized or whose premises were searched. The officer would not be required to give a copy of the affidavit to the person whose premises were searched or to leave a copy of the affidavit at the place from which the property or thing was taken. The officer could not give or leave a copy of an affidavit or tabulation that had been ordered suppressed.

Under the Act, the officer also must file the tabulation promptly with the court or magistrate. The tabulation may be suppressed by court order until the final disposition of the case, unless otherwise ordered. The bill specifies that an affidavit or tabulation that was ordered suppressed would continue to be suppressed until the final disposition of the case, unless otherwise ordered.

MCL 780.654 & 780.655

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 2-5-02

Fiscal Analyst: B. Baker