

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 1358 (as reported without amendment)
Sponsor: Senator Bill Bullard, Jr.
Committee: Judiciary

CONTENT

The bill would amend Public Act 189 of 1966, which prescribes search warrant procedures, to specify that an affidavit for a search warrant would be nonpublic information, but would become public information after 55 days unless a suppression order was issued.

Currently, a search warrant, affidavit, or tabulation contained in any court file or record retention system is nonpublic information. Under the bill, this would apply only to an affidavit for a search warrant, and would be subject to the exception described below.

On the 56th day following the issuance of a search warrant, the search warrant affidavit contained in any court file or court record retention system would become public information unless, before that day, a peace officer or prosecuting attorney obtained a suppression order from a judge or district court magistrate upon a showing under oath that suppression was necessary to protect an ongoing investigation or the privacy or safety of a victim or witness. A suppression order could be obtained ex parte in the same manner that the search warrant was issued (that is, without notice to or appearance of an opposing party).

The bill states that the provision that an affidavit would be nonpublic information, and the exception to that provision, would not affect a person's right to obtain a copy of an affidavit from the prosecuting attorney or law enforcement agency under the Freedom of Information Act.

(Public Acts 112 and 128 of 2002, which took effect on April 22, amended Public Act 189 of 1966. Under revisions enacted by Public Act 112, upon a showing that it is necessary to protect an ongoing investigation or the privacy or safety of a victim or witness, a magistrate who issues a search warrant may order that an affidavit be suppressed and not be given to the person whose property is seized or whose premises are searched until that person is charged with a crime or named as a claimant in a civil forfeiture proceeding involving the seized evidence. Also, the officer is not required to give a copy of the affidavit to a person whose property is seized or whose premises are searched or to leave a copy of the affidavit at the place from which the property was taken. Public Act 128 added the provision that a search warrant, affidavit, or tabulation contained in any court file or record retention system is nonpublic information.)

MCL 780.651

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

Date Completed: 5-29-02

Fiscal Analyst: Bill Bowerman