

SENATE BILL No. 1358

May 23, 2002, Introduced by Senators BULLARD, PETERS, DUNASKISS, JOHNSON and CHERRY and referred to the Committee on Judiciary.

"An act to provide procedures for making complaints for, obtaining, executing and returning search warrants; and to repeal certain acts and parts of acts,"

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

SB1358, As Passed House, June 27, 2002

07406 '02

TVD

SB1358, As Passed House, June 27, 2002

SB 1358 as amended by the Senate and House 2
[House amendments June 19, 2002 shown in brackets]

1 (a) The judge or district court magistrate orally
2 administers the oath or affirmation to an applicant for a search
3 warrant who submits an affidavit under this subsection.

4 (b) The affiant signs the affidavit. Proof that the affiant
5 has signed the affidavit may consist of an electronically or
6 electromagnetically transmitted facsimile of the signed
7 affidavit.

8 (3) A judge [] may issue a written search
warrant in person or
9 by any electronic or electromagnetic means of communication. If
10 a court order required pursuant to section 625a of the Michigan
11 vehicle code, 1949 PA 300, MCL 257.625a, is issued as a search
12 warrant, the written search warrant may be issued in person or by
13 any electronic or electromagnetic means of communication by a
14 judge or by a district court magistrate.

15 (4) The peace officer or department receiving an electroni-
16 cally or electromagnetically issued search warrant shall receive
17 proof that the issuing judge or district court magistrate has
18 signed the warrant before the warrant is executed. Proof that
19 the issuing judge or district court magistrate has signed the
20 warrant may consist of an electronically or electromagnetically
21 transmitted facsimile of the signed warrant.

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

25 (6) If an oath or affirmation is orally administered by
26 electronic or electromagnetic means of communication under this

SB1358, As Passed House, June 27, 2002

SB 1358 as amended June 19, 2002

3

1 section, the oath or affirmation is considered to be administered
2 before the judge or district court magistrate.

3 (7) If an affidavit for a search warrant is submitted by
4 electronic or electromagnetic means of communication, or a search
5 warrant is issued by electronic or electromagnetic means of com-
6 munication, the transmitted copies of the affidavit or search
7 warrant are duplicate originals of the affidavit or search war-
8 rant and are not required to contain an impression made by an
9 impression seal.

10 (8) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (9), AN AFFIDAVIT
11 FOR A search warrant ~~, affidavit, or tabulation~~ contained in
12 any court file or COURT record retention system is nonpublic
13 information.

14 (9) ON THE FIFTY-SIXTH DAY FOLLOWING THE ISSUANCE OF A
15 SEARCH WARRANT, [OR ON AUGUST 1, 2002, WHICHEVER IS LATER,] THE SEARCH
WARRANT AFFIDAVIT CONTAINED IN ANY
16 COURT FILE OR COURT RECORD RETENTION SYSTEM IS PUBLIC INFORMATION
17 UNLESS, BEFORE THE FIFTY-SIXTH DAY AFTER THE SEARCH WARRANT IS
18 ISSUED, [OR BEFORE AUGUST 1, 2002, WHICHEVER IS LATER,] A PEACE OFFICER OR
PROSECUTING ATTORNEY OBTAINS A SUP-
19 PRESSION ORDER FROM A [] MAGISTRATE UPON A
20 SHOWING UNDER OATH THAT SUPPRESSION OF THE AFFIDAVIT IS NECESSARY
21 TO PROTECT AN ONGOING INVESTIGATION OR THE PRIVACY OR SAFETY OF A
22 VICTIM OR WITNESS. THE SUPPRESSION ORDER MAY BE OBTAINED EX
23 PARTE IN THE SAME MANNER THAT THE SEARCH WARRANT WAS ISSUED. [AN INITIAL
SUPPRESSION ORDER ISSUED UNDER THIS SUBSECTION EXPIRES ON THE FIFTY-SIXTH
DAY AFTER THE ORDER IS ISSUED. A SECOND OR SUBSEQUENT SUPPRESSION ORDER
MAY BE OBTAINED IN THE SAME MANNER AS THE INITIAL SUPPRESSION ORDER AND
SHALL EXPIRE ON A DATE SPECIFIED IN THE ORDER.]
24 THIS SUBSECTION AND SUBSECTION (8) DO NOT AFFECT A PERSON'S RIGHT
25 TO OBTAIN A COPY OF A SEARCH WARRANT AFFIDAVIT FROM THE PROSECUT-
26 ING ATTORNEY OR LAW ENFORCEMENT AGENCY UNDER THE FREEDOM OF
27 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.