

SENATE BILL No. 1358

(As amended May 30, 2002)

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

A bill to amend 1966 PA 189, 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,"

by amending section 1 (MCL 780.651), as amended by 2002 PA 128.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1. (1) When an affidavit is made on oath to a JUDGE OR DISTRICT
2 COURT magis-
3 trate authorized to issue warrants in criminal cases, and the
4 affidavit establishes grounds for issuing a warrant pursuant to
5 this act, the JUDGE OR DISTRICT COURT magistrate, if he or she is
6 satisfied that there is
7 probable cause for the search, shall issue a warrant to search
8 the house, building, or other location or place where the prop-
9 erty or thing to be searched for and seized is situated.
10 (2) An affidavit for a search warrant may be made by any
11 electronic or electromagnetic means of communication if both of
12 the following occur:

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

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

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

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

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, 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, A PEACE OFFICER OR PROSECUTING ATTORNEY OBTAINS A SUP-
19 PPRESSION ORDER FROM A JUDGE OR DISTRICT COURT 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.
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.