

SENATE BILL NO. 1119

November 14, 2024, Introduced by Senators SHINK, POLEHANKI and MCMORROW and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

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 2014 PA 383.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) ~~When~~ **If** an affidavit **that establishes grounds to**
2 **issue a warrant under this act** is made ~~on~~ **under** oath **or affirmation**
3 to a judge or district court magistrate authorized to issue
4 warrants in criminal cases ~~, and the affidavit establishes grounds~~
5 ~~for issuing a warrant under this act,~~ **and** the judge or district

1 court magistrate ~~, if he or she~~ is satisfied that there is probable
2 cause for the search, **the judge or district court magistrate** shall
3 issue a warrant to search the house, building, or other location or
4 place where the person, property, or thing to be searched for and
5 seized is situated.

6 (2) An affidavit for a search warrant may be made by any
7 electronic or electromagnetic means of communication, including by
8 facsimile or over a computer network ~~, if both of the following~~
9 occur:

10 (a) The judge or district court magistrate orally administers
11 the oath or affirmation to an applicant for a search warrant who
12 submits an affidavit under 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 affidavit
16 or an electronic signature on an affidavit transmitted over a
17 computer network. ~~—~~

18 (3) A judge or district court magistrate may issue a written
19 search warrant in person or by any electronic or electromagnetic
20 means of communication, including by facsimile or over a computer
21 network.

22 (4) A judge or district court magistrate may sign an
23 electronically issued search warrant ~~when he or she is at~~ **from** any
24 location. ~~in this state.~~

25 (5) The peace officer or department receiving an
26 electronically or electromagnetically issued search warrant ~~shall~~
27 **must** receive proof that the issuing judge or district court
28 magistrate has signed the warrant before the warrant is executed.
29 Proof that the issuing judge or district court magistrate has

1 signed the warrant may consist of an electronically or
2 electromagnetically transmitted facsimile of the signed warrant or
3 an electronic signature on a warrant transmitted over a computer
4 network. —

5 (6) If an oath or affirmation is orally administered by
6 electronic or electromagnetic means of communication under this
7 section, the oath or affirmation is considered to be administered
8 before the judge or district court magistrate.

9 (7) If an affidavit for a search warrant is submitted by
10 electronic or electromagnetic means of communication, or a search
11 warrant is issued by electronic or electromagnetic means of
12 communication —the transmitted copies of the affidavit or search
13 warrant are duplicate originals of the affidavit or search warrant
14 and are not required to contain an impression made by an impression
15 seal.

16 (8) Except as provided in subsection (9), an affidavit for a
17 search warrant contained in any court file or court record
18 retention system is nonpublic information.

19 (9) On the fifty-sixth day following the issuance of a search
20 warrant, the search warrant affidavit contained in any court file
21 or court record retention system is public information unless,
22 before the fifty-sixth day after the search warrant is issued, a
23 peace officer or prosecuting attorney obtains a suppression order
24 from a judge or district court magistrate upon a showing under oath
25 **or affirmation** that suppression of the affidavit is necessary to
26 protect an ongoing investigation or the privacy or safety of a
27 victim or witness. The suppression order may be obtained ex parte
28 in the same manner that the search warrant was issued. An initial
29 suppression order issued under this subsection expires on the

1 fifty-sixth day after the order is issued. A second or subsequent
2 suppression order may be obtained in the same manner as the initial
3 suppression order and ~~shall expire~~ **expires** on a date specified in
4 the order. This subsection and subsection (8) do not affect a
5 person's right to obtain a copy of a search warrant affidavit from
6 the prosecuting attorney or law enforcement agency under the
7 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.