

HOUSE BILL No. 4484

March 21, 1989, Introduced by Reps. Van Regenmorter, Nye, Stupak, DeMars, Fitzgerald, Bandstra, Strand, Ciaramitaro, London, Gubow and Maynard and referred to the Committee on Judiciary.

A bill to amend section 1 of Act No. 189 of the Public Acts of 1966, 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,"

being section 780.651 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 1 of Act No. 189 of the Public Acts of
2 1966, being section 780.651 of the Michigan Compiled Laws, is
3 amended to read as follows:

4 Sec. 1. (1) When an affidavit is made on oath to a magis-
5 trate authorized to issue warrants in criminal cases, and ~~when~~
6 the affidavit establishes ~~the~~ grounds for issuing a warrant
7 pursuant to this act, the magistrate, if he OR SHE is satisfied
8 that there is ~~reasonable or~~ probable cause ~~therefor~~ FOR THE
9 SEARCH, shall issue a warrant to search the house, building, or

1 other location or place where the property or thing ~~which is~~ to
2 be searched for and seized is situated.

3 (2) AN AFFIDAVIT FOR A SEARCH WARRANT MAY BE MADE BY ANY
4 ELECTRONIC OR ELECTROMAGNETIC MEANS OF COMMUNICATION IF BOTH OF
5 THE FOLLOWING OCCUR:

6 (A) THE MAGISTRATE OR DISTRICT COURT MAGISTRATE ORALLY
7 ADMINISTERS THE OATH OR AFFIRMATION TO AN APPLICANT FOR A SEARCH
8 WARRANT WHO SUBMITS AN AFFIDAVIT UNDER THIS SUBSECTION.

9 (B) THE AFFIANT SIGNS THE AFFIDAVIT. PROOF THAT THE AFFIANT
10 HAS SIGNED THE AFFIDAVIT MAY CONSIST OF AN ELECTRONICALLY OR
11 ELECTROMAGNETICALLY TRANSMITTED FACSIMILE OF THE SIGNED AFFIDA-
12 VIT, OR VERIFICATION BY A SYSTEM APPROVED BY THE STATE COURT
13 ADMINISTRATOR.

14 (3) A MAGISTRATE MAY ISSUE A SEARCH WARRANT IN PERSON OR BY
15 ANY ELECTRONIC OR ELECTROMAGNETIC MEANS OF COMMUNICATION. IF A
16 COURT ORDER REQUIRED PURSUANT TO SECTION 625A OF THE MICHIGAN
17 VEHICLE CODE, ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING SEC-
18 TION 257.625A OF THE MICHIGAN COMPILED LAWS, IS ISSUED AS A
19 SEARCH WARRANT, THE SEARCH WARRANT MAY BE ISSUED IN PERSON OR BY
20 ANY ELECTRONIC OR ELECTROMAGNETIC MEANS OF COMMUNICATION BY A
21 MAGISTRATE OR BY A DISTRICT COURT MAGISTRATE.

22 (4) THE PEACE OFFICER OR DEPARTMENT RECEIVING AN ELECTRONI-
23 CALLY OR ELECTROMAGNETICALLY ISSUED SEARCH WARRANT SHALL RECEIVE
24 PROOF THAT THE ISSUING MAGISTRATE OR DISTRICT COURT MAGISTRATE
25 HAS SIGNED THE WARRANT BEFORE THE WARRANT IS EXECUTED. PROOF
26 THAT THE ISSUING MAGISTRATE OR DISTRICT COURT MAGISTRATE HAS
27 SIGNED THE WARRANT MAY CONSIST OF AN ELECTRONICALLY OR

1 ELECTROMAGNETICALLY TRANSMITTED FACSIMILE OF THE SIGNED WARRANT,
2 OR VERIFICATION BY A SYSTEM APPROVED BY THE STATE COURT
3 ADMINISTRATOR.

4 (5) A SEARCH WARRANT ISSUED BY ELECTRONIC OR ELECTROMAGNETIC
5 MEANS SHALL BE CONSTRUCTED OF MATERIALS THAT DO NOT DETERIORATE
6 MORE RAPIDLY THAN ORDINARY TYPEWRITTEN MATERIAL ON ORDINARY
7 PAPER.

8 (6) IF AN OATH OR AFFIRMATION IS ORALLY ADMINISTERED BY
9 ELECTRONIC OR ELECTROMAGNETIC MEANS OF COMMUNICATION UNDER THIS
10 SECTION, THE OATH OR AFFIRMATION IS CONSIDERED TO BE ADMINISTERED
11 BEFORE THE MAGISTRATE OR DISTRICT COURT MAGISTRATE.

12 (7) IF AN AFFIDAVIT FOR A SEARCH WARRANT IS SUBMITTED BY
13 ELECTRONIC OR ELECTROMAGNETIC MEANS OF COMMUNICATION, OR A SEARCH
14 WARRANT IS ISSUED BY ELECTRONIC OR ELECTROMAGNETIC MEANS OF COM-
15 MUNICATION, THE TRANSMITTED COPIES OF THE AFFIDAVIT OR SEARCH
16 WARRANT ARE DUPLICATE ORIGINALS OF THE AFFIDAVIT OR SEARCH WAR-
17 RANT AND ARE NOT REQUIRED TO CONTAIN AN IMPRESSION MADE BY AN
18 IMPRESSION SEAL.

19 (8) AS USED IN THIS SECTION, "MAGISTRATE" MEANS THAT TERM AS
20 IT IS DEFINED IN SECTION 1 OF CHAPTER 1 OF THE CODE OF CRIMINAL
21 PROCEDURE, ACT NO. 175 OF THE PUBLIC ACTS OF 1927, BEING SECTION
22 761.1 OF THE MICHIGAN COMPILED LAWS.

23 Section 2. This amendatory act shall not take effect unless
24 Senate Bill No. _____ or House Bill No. 4486 (request
25 no. 01598'89 c **) of the 85th Legislature is enacted into law.