

SENATE BILL No. 23

January 11, 1989, Introduced by Senators N. SMITH, WELBORN, DI NELLO, CARL, POSTHUMUS, DILLINGHAM, BARCIA, GAST, KELLY, BINSFELD, NICHOLS, CRUCE, CROPSEY, DE GROW, FAXON and SCHWARZ and referred to the Committee on Judiciary.

A bill to amend section 6 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 780.656 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 6 of Act No. 189 of the Public Acts of
2 1966, being section 780.656 of the Michigan Compiled Laws, is
3 amended to read as follows:

4 Sec. 6. (1) The officer to whom a warrant is directed, or
5 any person assisting him OR HER, may break any outer or inner
6 door or window of a house or building, ANY PART OF THE HOUSE OR
7 BUILDING, or anything ~~therein~~ in THE HOUSE OR BUILDING, UNDER
8 ANY OF THE FOLLOWING CIRCUMSTANCES:

1 (A) IN order to execute the warrant, if, after notice of
2 ~~his~~ THE OFFICER'S authority and purpose, ~~he~~ THE OFFICER is
3 refused admittance. ~~, or when~~

4 (B) IN ORDER TO EXECUTE THE WARRANT, WITHOUT GIVING NOTICE
5 OF THE OFFICER'S PURPOSE OR WAITING UNTIL ADMITTANCE IS REFUSED,
6 IF THE MAGISTRATE ISSUING THE WARRANT HAS INCLUDED IN THE WARRANT
7 A DIRECTION THAT THE OFFICER EXECUTING THE WARRANT IS NOT
8 REQUIRED TO GIVE NOTICE OF THE OFFICER'S PURPOSE OR TO WAIT UNTIL
9 ADMITTANCE IS REFUSED. THE MAGISTRATE MAY DIRECT THAT THE OFFI-
10 CER MAY ENTER THE HOUSE OR BUILDING IMMEDIATELY, WITHOUT GIVING
11 NOTICE OF THE OFFICER'S PURPOSE OR WAITING UNTIL ADMITTANCE IS
12 REFUSED IF THE MAGISTRATE DETERMINES THAT THE COLLECTION OF EVI-
13 DENCE OR THE SAFETY OF THE OFFICER OR ANOTHER PERSON MAY BE JEOP-
14 ARDIZED BY ANY DELAY IN THE EXECUTION OF THE WARRANT.

15 (C) IF necessary to liberate himself OR HERSELF or any
16 person assisting him OR HER in execution of the warrant.

17 (2) IF AN OFFICER DAMAGES A HOUSE OR BUILDING OR ITS CON-
18 TENTS IN EXECUTING A WARRANT PURSUANT TO SUBSECTION (1), THE UNIT
19 OF GOVERNMENT THAT EMPLOYS THE OFFICER SHALL BE LIABLE TO THE
20 OWNER OF THE PROPERTY FOR THE DAMAGE, IF THE OWNER NEITHER HAD
21 PRIOR KNOWLEDGE OF, NOR CONSENTED TO, THE COMMISSION OF THE CRIME
22 IN RELATION TO WHICH THE WARRANT WAS ISSUED.

23 Section 2. This amendatory act shall not take effect unless
24 Senate Bill No. 22

25 of the 85th Legislature is enacted into law.