

HOUSE BILL No. 5270

October 17, 2001, Introduced by Reps. Caul, Woronchak, Kuipers, Birkholz, Allen, Meyer, Jelinek, Richardville, Pumford, Toy, Newell, Scranton, Shackleton, Patterson, Vander Veen, Middaugh, Cassis, Gilbert, Sanborn and DeVuyst and referred to the Committee on Criminal Justice.

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 sections 4 and 5 (MCL 780.654 and 780.655).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) A search warrant shall be directed to the sher-
2 iff or any peace officer, commanding ~~such~~ THE SHERIFF OR PEACE
3 officer to search the house, building, or other location or
4 place, where any property or other thing for which ~~he~~ THE SHER-
5 IFF OR PEACE OFFICER is required to search is believed to be
6 concealed. Each warrant shall designate and describe the house
7 or building or other location or place to be searched and the
8 property or thing to be seized.

9 (2) The warrant shall ~~also~~ EITHER state the grounds or the
10 probable or reasonable cause for its issuance ~~,~~ or ~~in lieu~~

1 ~~thereof,~~ SHALL HAVE ATTACHED TO IT a copy of the affidavit. ~~may~~
2 ~~be attached thereto.~~ IF A COPY OF THE AFFIDAVIT IS ATTACHED TO
3 THE WARRANT, THE OFFICER IN CHARGE OF EXECUTING THE WARRANT IS
4 NOT REQUIRED TO SHOW OR GIVE THE AFFIDAVIT, OR A COPY OF THE
5 AFFIDAVIT, TO ANY PERSON WHOSE PREMISES ARE BEING SEARCHED.

6 Sec. 5. (1) When an officer in the execution of a search
7 warrant finds any property or seizes any of the other things for
8 which a search warrant is allowed by this act, the officer, in
9 the presence of the person from whose possession or premises the
10 property or thing was taken, if present, or in the presence of at
11 least 1 other person, shall make a complete and accurate tabula-
12 tion of the property and things ~~so~~ THAT WERE seized. The offi-
13 cer taking property or other things under the warrant shall
14 ~~forthwith~~ give to the person from whom or from whose premises
15 the property was taken a copy of the warrant and shall give to
16 the person a copy of the tabulation upon completion, or shall
17 leave a copy of the warrant and tabulation at the place from
18 which the property or thing was taken. ~~He~~ THE OFFICER IS NOT
19 REQUIRED TO GIVE A COPY OF THE AFFIDAVIT TO THAT PERSON OR TO
20 LEAVE A COPY OF THE AFFIDAVIT AT THE PLACE FROM WHICH THE PROP-
21 ERTY OR THING WAS TAKEN.

22 (2) THE OFFICER shall file the tabulation promptly with the
23 court or magistrate. The tabulation AND THE AFFIDAVIT may be
24 suppressed by order of the court until the final disposition of
25 the case unless otherwise ordered. The property and things ~~so~~
26 THAT WERE seized shall be safely kept by the officer so long as

1 necessary for the purpose of being produced or used as evidence
2 ~~on~~ IN any trial.

3 (3) As soon as practicable after trial, stolen or embezzled
4 property shall be restored to the owner ~~thereof~~ OF THE
5 PROPERTY. Other things seized under the warrant shall be dis-
6 posed of under direction of the court or magistrate, except that
7 ~~moneys~~ MONEY and other useful property shall be turned over to
8 the state, county or municipality, the officers of which seized
9 the property under the warrant. ~~Such moneys~~ MONEY TURNED OVER
10 TO THE STATE, COUNTY, OR MUNICIPALITY shall be credited to the
11 general fund of the state, county, or municipality.