

SEARCH WARRANTS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 1094 (S-1) as passed by the Senate

Sponsor: Sen. Erika Geiss

House Committee: [Pending]

**Senate Committee: Civil Rights, Judiciary, and Public Safety
Complete to 12-17-24**

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 1094 would amend 1966 PA 189, which provides for the procedures for obtaining and executing *search warrants*,¹ to modify those procedures and create new restrictions on a law enforcement officer's authorization to use force during the execution of a search warrant.

Current law allows an officer (or any person assisting an officer) to break any outer or inner door or window of a house or building (or anything inside of the structure) to execute a warrant, as long as either of the following are true:

- The officer has provided notice of his authority and purpose and is refused admittance.
- The use of force is necessary to liberate the officer or any person assisting the officer in the execution of the warrant.

The bill would newly require officers (once they have announced their identity and purpose) to wait a *reasonable period of time* before attempting forcible entry into a house or building. In the event that an officer is not granted admittance after allowing this reasonable period of time to elapse, the officer could use force to enter the structure and execute the warrant (as under current law).

Reasonable period of time would mean a period of time that, under the totality of the circumstances known to the law enforcement officer, reasonably affords an occupant of the dwelling or building an opportunity to grant admittance to the officer, taking into account the period of time it would take an occupant to destroy evidence.

Current law does not provide any exceptions to the requirement that law enforcement officers must "knock and announce" their presence to potential occupants before executing a search warrant on a structure or property. The bill would newly allow law enforcement officers to execute a search warrant on a "no-knock" basis (i.e., without first providing notice to potential occupants) if the executing officer has reasonable cause to believe one or more of the following circumstances apply:

- There exists imminent danger to the life of the officer or another individual.
- Evidence indicates that an individual present at the location where the warrant is to be executed is aware that law enforcement officers are at the location.

¹ A *search warrant* is a physical or electronic document signed by a judge or district court magistrate authorizing a law enforcement officer to search a house, building, or other location or place where the person, property, or object to be searched for and seized is situated. Law enforcement officers seeking to obtain a search warrant must submit an affidavit demonstrating that there is *probable cause* for the search (that is, there is a reasonable basis for believing that evidence of a crime is present in the location to be searched).

- Announcing identity and purpose of the officer would inhibit the investigation of a crime.

In addition, the bill would newly allow for law enforcement officers to seek no-knock authorization if the applying officer has prior knowledge of any of the circumstances listed above at the time of the application. The officer would be required to include that information in the affidavit, in addition to the following (to the extent known):

- A list of all known occupants of the location to be searched.
- Notation of any known disabilities of known occupants of the location.
- Notation of animals known to occupy the location.

Finally, the bill would also require that no-knock warrants with prior authorization be executed only between 8:00 a.m. and 6:00 p.m., as well as require that officers engaged in the forcible entry of a building during the execution of a warrant must be in uniform or otherwise clearly recognizable as a law enforcement officer.

MCL 780.656

BACKGROUND

Senate Bill 1094 is identical to House Bill 6118 of the current legislative session.

FISCAL IMPACT:

Senate Bill 1094 would have no fiscal impact on the state or local units of government.

Fiscal Analyst: Aaron A. Meek

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.