

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)
Act 175 of 1927

764.25b Body cavity search.

Sec. 25b.

(1) As used in this section:

(a) "Body cavity" means the interior of the human body not visible by normal observation, being the stomach or rectal cavity of a person and the vagina of a female person.

(b) "Body cavity search" means a physical intrusion into a body cavity for the purpose of discovering any object concealed in a body cavity.

(2) Except as otherwise provided in this section, a search of a body cavity shall not be conducted without a valid search warrant.

(3) Subsection (2) does not apply to a body cavity search of a person who is any of the following:

(a) A person serving a sentence for a criminal offense in a detention facility or a state correctional facility housing prisoners under the jurisdiction of the department of corrections, including a youth correctional facility operated by the department of corrections or a private vendor under section 20g of 1953 PA 232, MCL 791.220g.

(b) A person who, as a result of an order by a court, is lodged in an inpatient facility operated by or under contract with the department of community health or a county community mental health board, if the person is self-abusive and the search is necessary for his or her protection.

(c) A person who, as the result of a dispositional order entered after adjudication by the juvenile division of probate court before January 1, 1998 or by the family division of the circuit court on or after January 1, 1998, is residing in a juvenile detention facility.

(4) If any of the circumstances described in subsection (3)(a), (b), or (c) applies, a search of a body cavity shall not be conducted unless the person conducting the search has obtained prior written authorization from the chief administrative officer of the facility or from that officer's designee.

(5) A body cavity search shall be conducted by a licensed physician or a physician's assistant, licensed practical nurse, or registered professional nurse acting with the approval of a licensed physician. If the body cavity search is conducted by a person of the opposite sex as the person being searched, the search shall be conducted in the presence of a person of the same sex as the person being searched.

(6) If a body cavity search is conducted under a valid search warrant, the law enforcement officer who executes the warrant required under subsection (2) shall prepare a report containing all of the following:

(a) A copy of the search warrant required under subsection (2).

(b) The name and sex of the person searched, if not contained in the warrant.

(c) The name of the person who conducted the search.

(d) The time, date, and place of the search.

(e) A list of all items recovered from the person who was searched.

(f) The name and sex of all law enforcement officers or employees of the law enforcement agency present at the search.

(7) If a body cavity search is conducted under subsections (3) and (4), the personnel authorized to conduct the body cavity search shall prepare a report containing all of the following:

(a) A copy of the written authorization required under subsection (4).

(b) The name and sex of the person searched, if not contained in the written authorization.

(c) The name of the person who conducted the search.

(d) The time, date, and place of the search.

(e) A list of all items recovered from the person who was searched.

(f) The name and sex of all personnel present at the search.

(8) A copy of the report required by subsection (6) or (7) shall be given without cost to the person who has been searched, subject to deletions permitted by section 13 of the freedom of information act, 1976 PA 442, MCL 15.243.

(9) A law enforcement officer, an employee of the law enforcement agency, or the chief administrative officer or personnel of a facility described in subsection (3) who conducts or authorizes a body cavity search in violation of this section is guilty of a misdemeanor.

History: Add. 1979, Act 185, Eff. Mar. 27, 1980 ;-- Am. 1983, Act 92, Eff. Mar. 29, 1984 ;-- Am. 1996, Act 418, Eff. Jan. 1, 1998 ;-- Am. 1999, Act 65, Imd. Eff. June 24, 1999