

Michigan

# SEARCH WARRANT GUIDE

ANTHONY BANDIERO, ESQ.

*The Amendment  
the people to be secure in  
houses, papers, and effects, against  
unreasonable searches and seizures, shall not  
be violated, and no Warrants*

# Michigan Search Warrant Guide

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A REFERENCE FOR LAW ENFORCEMENT



**Anthony Bandiero, JD, ALM**

Blue to Gold Law Enforcement Training, LLC  
SPOKANE, WASHINGTON

## Michigan Search Warrant Laws

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Blue to Gold, LLC  
1818 West Francis Ave #101 Spokane, WA 99205  
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— Anthony Bandiero

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## PART I

### Common Search Warrant Questions

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#### Application Procedure

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|                                                                       |                                                                                                                                                                                                                                                                              |
|-----------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1) Who may apply?                                                     | No express provision                                                                                                                                                                                                                                                         |
| 2) Who has the authority to issue?                                    | Any judge or magistrate authorized to issue warrants in criminal cases (§ 780.651)                                                                                                                                                                                           |
| 3) Is an affidavit necessary?                                         | Yes (§§ 780.651, 780.653)<br>Note: provision for hearsay testimony in the affidavit                                                                                                                                                                                          |
| 4) Can sworn oral testimony replace an affidavit?                     | No express provision                                                                                                                                                                                                                                                         |
| 5) Are there special provisions for obtaining a warrant by telephone? | No<br><br>Note: Provision for fax transmission. Affidavit for search warrant may be made by any electronic or electromagnetic means, including by fax or over a computer network, of communication if oath is administered orally and affiant signs affidavit (§ 780.651(2)) |

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Judge or magistrate may sign electronically issued search warrant when at any location in state (§ 780.651(4))

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6) What property can be seized?

- Stolen or embezzled
  - Used or intended for use in a crime
  - Possessed or controlled unlawfully
  - Evidence of a crime or participation in a crime
  - Contraband
  - Human or animal corpse which may be the victim of a crime
  - The object of a search warrant under any other law of this state
  - Person subject to bench or arrest warrant
- (§ 780.652)
- 

7) Contents of application

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a) Who or what is to be searched?

Yes (§ 780.651)

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b) State the items being sought?

Yes (§ 780.651)

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c) State the basis for probable cause?

Yes (§§ 780.651, 780.653)

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d) Are there additional

Affidavit (§§ 780.651, 780.653)

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requirements?

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### The Search Warrant

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|                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|---------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1) Does it require a standard format? | No, but see Mich. S.C.A.O. Approved Form DCY 231                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 2) Required contents                  | <ul style="list-style-type: none"><li>–Direction to executing officer</li><li>–Person/place to be searched</li><li>–Property/thing to be seized</li><li>–Grounds or cause for issuance of search warrant or a copy of the affidavit</li></ul> <p>(§ 780.654)</p> <p>Note: Judge may issue search warrant in person or by an electronic or electromagnetic means of communication, including by fax or over a computer network (§ 780.651(3))</p> <p>Note: Affidavit or warrant transmitted electronically is a duplicate original and does not require an impression created by an impression seal (§ 780.651(6))</p> |

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### Execution of Search Warrant

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|                                              |                                                |
|----------------------------------------------|------------------------------------------------|
| 1) How soon must search warrant be executed? | No express provision                           |
| 2) Who may execute?                          | Any sheriff or other peace officer (§ 780.654) |

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|                                                                   |                                                                                                                                                                                                                                                                                                                                                                 |
|-------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3) Where is the search warrant applicable?                        | No express provision                                                                                                                                                                                                                                                                                                                                            |
| 4) When may warrant be executed?                                  |                                                                                                                                                                                                                                                                                                                                                                 |
| a) Is execution limited during daytime?                           | No express provision                                                                                                                                                                                                                                                                                                                                            |
| b) Is execution limited during nighttime?                         | No express provision                                                                                                                                                                                                                                                                                                                                            |
| 5) Is forced or unannounced entry allowed under the warrant?      | If after notice of his authority and purpose, the executing officer or anyone assisting him<br>—Is refused admittance to the premises to be searched or<br>—Is confined<br><br>The executing officer or anyone assisting him may break any outer or inner door or window of a house or building or anything therein in order to execute the warrant (§ 780.656) |
| 6) Are there limitations or specific rules regarding the search?  | No express provision                                                                                                                                                                                                                                                                                                                                            |
| 7) Is leaving documentation at the scene of the search mandatory? | —Copy of warrant<br>—Tabulation of property seized (§ 780.655)                                                                                                                                                                                                                                                                                                  |

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## **PART II**

### **M.C.L.A. 780.651**

#### **Issuance of search warrant; requirements; affidavit for search warrant made by electronic means; electronically issued search warrant; proof; administration of oath or affirmation; copies; confidentiality of affidavit; suppression order**

Sec. 1. (1) When an affidavit is made on oath to a judge or district court magistrate authorized to issue warrants in criminal cases, and the affidavit establishes grounds for issuing a warrant under this act, the judge or district court magistrate, if he or she is satisfied that there is probable cause for the search, shall issue a warrant to search the house, building, or other location or place where the person, property, or thing to be searched for and seized is situated.<sup>1</sup> Knocking on the door or ringing the doorbell and identifying the presence of the peace officer; or

(2) An affidavit for a search warrant may be made by any electronic or electromagnetic means of communication, including by facsimile or over a computer network, if both of the following occur:

- (a) The judge or district court magistrate orally administers the oath or affirmation to an applicant for a search warrant who submits an affidavit under this subsection.
- (b) The affiant signs the affidavit. Proof that the affiant has signed the affidavit may consist of an electronically or

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electromagnetically transmitted facsimile of the signed affidavit or an electronic signature on an affidavit transmitted over a computer network.

(3) A judge or district court magistrate may issue a written search warrant in person or by any electronic or electromagnetic means of communication, including by facsimile or over a computer network.

(4) A judge or district court magistrate may sign an electronically issued search warrant when he or she is at any location in this state.

(5) The peace officer or department receiving an electronically or electromagnetically issued search warrant shall receive proof that the issuing judge or district court magistrate has signed the warrant before the warrant is executed. Proof that the issuing judge or district court magistrate has signed the warrant may consist of an electronically or electromagnetically transmitted facsimile of the signed warrant or an electronic signature on a warrant transmitted over a computer network.

(6) If an oath or affirmation is orally administered by electronic or electromagnetic means of communication under this section, the oath or affirmation is considered to be administered before the judge or district court magistrate.

(7) If an affidavit for a search warrant is submitted by electronic or electromagnetic means of communication, or a search warrant is issued by electronic or electromagnetic means of communication, the transmitted copies of the affidavit or search warrant are duplicate originals of the affidavit or search warrant and are not required to contain an impression made by an impression seal.

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(8) Except as provided in subsection (9), an affidavit for a search warrant contained in any court file or court record retention system is nonpublic information.

(9) On the fifty-sixth day following the issuance of a search warrant, the search warrant affidavit contained in any court file or court record retention system is public information unless, before the fifty-sixth day after the search warrant is issued, a peace officer or prosecuting attorney obtains a suppression order from a judge or district court magistrate upon a showing under oath that suppression of the affidavit is necessary to protect an ongoing investigation or the privacy or safety of a victim or witness. The suppression order may be obtained ex parte in the same manner that the search warrant was issued. An initial suppression order issued under this subsection expires on the fifty-sixth day after the order is issued. A second or subsequent suppression order may be obtained in the same manner as the initial suppression order and shall expire on a date specified in the order. This subsection and subsection (8) do not affect a person's right to obtain a copy of a search warrant affidavit from the prosecuting attorney or law enforcement agency under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

**M.C.L.A. 780.652**

**Property and persons subject to search and seizure**

Sec. 2. (1) A warrant may be issued to search for and seize any property or other thing that is 1 or more of the following:

(a) Stolen or embezzled in violation of a law of this state.

(b) Designed and intended for use, or that is or has been used, as the means of committing a crime.

(c) Possessed, controlled, or used wholly or partially in violation of a law of this state.

(d) Evidence of crime or criminal conduct.

(e) Contraband.

(f) The body or person of a human being or of an animal that may be the victim of a crime.

(g) The object of a search warrant under another law of this state providing for the search warrant. If there is a conflict between this act and another search warrant law, this act controls.

(2) A warrant may be issued to search for and seize a person who is the subject of either of the following:

(a) An arrest warrant for the apprehension of a person charged with a crime.

(b) A bench warrant issued in a criminal case.



ABOUT THE AUTHOR

**Anthony Bandiero, JD, ALM**

Anthony is an attorney and retired law enforcement officer with experience as both a municipal police officer and sergeant with a state police agency. Anthony has studied constitutional law for over twenty years and has trained countless police officers around the nation in search and seizure.

View his bio at [BlueToGold.com/about](https://www.BluetoGold.com/about)



Michigan

# SEARCH WARRANT GUIDE

This booklet is a straightforward and essential resource for anyone involved in writing or executing search warrants in Michigan. Consolidating relevant statutes and procedural rules and offering clear answers to common questions and addressing real-world challenges.

Designed to be a quick reference, this booklet covers key topics such as warrant application, execution, and return procedures, as well as critical provisions from the Michigan Code and Michigan Rules of Criminal Procedure. Whether clarifying authority to issue warrants, addressing defects, or ensuring compliance with execution and return requirements, this guide provides the tools you need for accuracy and legal compliance.



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