

HOUSE BILL No. 5011

May 28, 2009, Introduced by Reps. Constan, Gregory, Lindberg, Nerat, Spade, Polidori, LeBlanc, Gonzales, Liss, Barnett, Robert Jones and Neumann and referred to the Committee on Senior Health, Security, and Retirement.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 1a of chapter IV (MCL 764.1a), as amended by
2005 PA 106.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER IV

Sec. 1a. (1) A magistrate shall issue a warrant upon
presentation of a proper complaint alleging the commission of an
offense and a finding of reasonable cause to believe that the
individual accused in the complaint committed that offense. The
complaint shall be sworn to before a magistrate or clerk.

(2) The finding of reasonable cause by the magistrate may be

1 based upon 1 or more of the following:

2 (a) Factual allegations of the complainant contained in the
3 complaint.

4 (b) The complainant's sworn testimony.

5 (c) The complainant's affidavit.

6 (d) Any supplemental sworn testimony or affidavits of other
7 individuals presented by the complainant or required by the
8 magistrate.

9 (3) The magistrate may require sworn testimony of the
10 complainant or other individuals. Supplemental affidavits may be
11 sworn to before an individual authorized by law to administer
12 oaths. The factual allegations contained in the complaint,
13 testimony, or affidavits may be based upon personal knowledge,
14 information and belief, or both.

15 (4) The magistrate shall not refuse to accept a complaint
16 alleging a violation of section 81 or 81a of the Michigan penal
17 code, 1931 PA 328, MCL 750.81 and 750.81a, or a violation of a
18 local ordinance substantially corresponding to section 81 of the
19 Michigan penal code, 1931 PA 328, MCL 750.81, by the spouse of the
20 victim, a former spouse of the victim, an individual with whom the
21 victim has had a child in common, an individual with whom the
22 victim has or has had a dating relationship, or an individual
23 residing or having resided in the same household as the victim on
24 grounds that the complaint is signed upon information and belief by
25 an individual other than the victim.

26 **(5) THE MAGISTRATE SHALL NOT REFUSE TO ACCEPT A COMPLAINT**
27 **ALLEGING THAT A CRIME WAS COMMITTED IN WHICH THE VICTIM IS A**

1 VULNERABLE ADULT ON THE GROUNDS THAT THE COMPLAINT IS SIGNED UPON
2 INFORMATION AND BELIEF BY AN INDIVIDUAL OTHER THAN THE VICTIM.

3 (6) ~~(5)~~—A warrant may be issued under this section only upon
4 compliance with the requirements of section 1 of this chapter.

5 (7) ~~(6)~~—As used in this section: ~~—"dating"~~

6 (A) "DATING relationship" means frequent, intimate
7 associations primarily characterized by the expectation of
8 affectional involvement. Dating relationship does not include a
9 casual relationship or an ordinary fraternization between 2
10 individuals in a business or social context.

11 (B) "VULNERABLE ADULT" MEANS THAT TERM AS DEFINED IN SECTION
12 145M OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.145M.