

# HOUSE BILL No. 4669

May 12, 1999, Introduced by Reps. Kowall, Pumford, Bishop, Sanborn and Faunce and referred to the Committee on Criminal Law and Corrections.

A bill to amend 1927 PA 175, entitled  
"The code of criminal procedure,"  
by amending sections 25a and 25b (MCL 764.25a and 764.25b),  
section 25a as amended by 1983 PA 92 and section 25b as amended  
by 1996 PA 418.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 25a. (1) As used in this section, "strip search" means  
2 a search which requires a person to remove his or her clothing to  
3 expose underclothing, breasts, buttocks, or genitalia.

4       (2) A person arrested or detained for a misdemeanor offense,  
5 or an offense which is punishable only by a civil fine shall not  
6 be strip searched unless both of the following occur:

7       (a) The person arrested is being lodged into a detention  
8 facility by order of a court or there is reasonable cause to

1 believe that the person is concealing a weapon, a controlled  
2 substance, or evidence of a crime.

3 (b) The strip search is conducted by a person who has  
4 obtained prior written authorization from the chief law enforce-  
5 ment officer of the law enforcement agency conducting the strip  
6 search, or from that officer's designee; or if the strip search  
7 is conducted upon a minor in a juvenile detention facility which  
8 is not operated by a law enforcement agency, the strip search is  
9 conducted by a person who has obtained prior written authoriza-  
10 tion from the chief administrative officer of that facility, or  
11 from that officer's designee.

12 (3) A strip search ~~which is~~ conducted under this section  
13 shall be performed by a person of the same sex as the person  
14 being searched and shall be performed in a place ~~which~~ THAT  
15 prevents the search from being observed by a person not conduct-  
16 ing or necessary to assist with the search. A law enforcement  
17 officer who assists in the strip search shall be of the same sex  
18 as the person being searched.

19 (4) If a strip search is conducted under this section, the  
20 arresting officer shall prepare a report of the strip search.  
21 The report shall include the following information:

22 (a) The name and sex of the person subjected to the strip  
23 search.

24 (b) The name and sex of the person conducting the strip  
25 search.

26 (c) The name and sex of a person who assists in conducting  
27 the strip search.

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

(e) The justification for conducting a strip search.

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

(g) A copy of the written authorization required under subsection (2)(b).

(5) A copy of the report required by subsection (4) 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, ~~Act No. 442 of the Public Acts of 1976, being section 15.243 of the Michigan Compiled Laws~~ 1976 PA 442, MCL 15.243.

(6) A law enforcement officer, any employee of the law enforcement agency, or a chief administrative officer or employee of a juvenile detention facility who conducts or authorizes a strip search in violation of this section is guilty of a misdemeanor.

(7) This section shall not apply to the strip search of a person lodged in a detention facility by an order of a court or in 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.

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.

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

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

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

9 (a) A person serving a sentence for a criminal offense in a  
10 detention facility or a state correctional facility HOUSING  
11 PRISONERS under the jurisdiction of the department of  
12 corrections, INCLUDING A YOUTH CORRECTIONAL FACILITY OPERATED BY  
13 THE DEPARTMENT OF CORRECTIONS OR A PRIVATE VENDOR UNDER  
14 SECTION 20G OF 1953 PA 232, MCL 791.220G.

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

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

25 (4) If any of the circumstances described in subsection  
26 (3)(a), (b), or (c) applies, a search of a body cavity shall not  
27 be conducted unless the person conducting the search has obtained

1 prior written authorization from the chief administrative officer  
2 of the facility or from that officer's designee.

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

10 (6) If a body cavity search is conducted under a valid  
11 search warrant, the law enforcement officer who executes the war-  
12 rant required under subsection (2) shall prepare a report con-  
13 taining all of the following:

14 (a) A copy of the search warrant required under subsection  
15 (2).

16 (b) The name and sex of the person searched, if not con-  
17 tained in the warrant.

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

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

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

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

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

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

3 (b) The name and sex of the person searched, if not con-  
4 tained in the written authorization.

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

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

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

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

11 (8) A copy of the report required by subsection (6) or (7)  
12 shall be given without cost to the person who has been searched,  
13 subject to deletions permitted by section 13 of the freedom of  
14 information act, ~~Act No. 442 of the Public Acts of 1976~~ 1976 PA  
15 442, MCL 15.243.

16 (9) A law enforcement officer, an employee of the law  
17 enforcement agency, or the chief administrative officer or per-  
18 sonnel of a facility described in subsection (3) who conducts or  
19 authorizes a body cavity search in violation of this section is  
20 guilty of a misdemeanor.