



MICHIGAN STATE POLICE
LEGAL UPDATE
 MARCH 2007

This update is published by the Michigan State Police Executive Division. Questions and comments may be directed to the Executive Resource Section at MSPLegal@Michigan.gov.

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STATUTES

To read the full text of these statutes go to www.michiganlegislature.org, or click on the public act or statute citation following each summary.

MCLs 333.7410 & 777.18
Libraries added to drug free zones
 Effective March 30, 2007

Public Act 552 of 2006 amends the drug free school zone statute to include libraries. It will now be unlawful to possess a controlled substance within 1,000 feet of a library. Libraries covered by the new statute include state, local, and school libraries. It also includes privately-owned libraries open to the public.

[Public Act 552 of 2006](#)

MCLs 445.401 – 445.408
Second Hand or Junk Dealers
 Effective March 30, 2007

Public Act 675 of 2006 amends the law governing second hand and junk dealers to allow local licensing and inspection of such dealers. The Act also requires that dealers maintain records of transactions and that those records be available for inspection by local, but not state, law enforcement. The records must include a fingerprint of persons selling scrap to the dealer. Finally, the Act makes it a felony for a dealer to knowingly buy or sell stolen scrap metal.

Officers should note that this section does not apply to pawnbrokers, which are separately addressed in the Pawnbrokers Act, [MCL 446.201](#) et seq.

[Public Act 675 of 2006](#)

MCL 750.174
Embezzlement from a charity
 Effective March 30, 2007

Public Act 573 of 2006 increases the penalties for embezzlement when the victim is a charity recognized under the Internal Revenue Code and adds additional tiers for all embezzlements. Under the amended statute, the following penalties apply to embezzlement from a charity:

<u>Amount Embezzled</u>	<u>Penalty</u>
Less than \$200	1 year misdemeanor
\$200 to \$1,000	5 year felony
\$1,000 to \$20,000	10 year felony

Additional tiers for all embezzlements are as follows:

<u>Amount Embezzled</u>	<u>Penalty</u>
\$20,000 to \$50,000	10 year felony
\$50,000 to \$100,000	15 year felony
More than \$100,000	20 year felony

[Public Act 573 of 2006](#)

CRIMINAL LAW AND PROCEDURE
MANUAL SUPPLEMENT

The MSP Training Division's *Criminal Law and Procedure, A Manual for Michigan Police Officers*, is published annually and supplemented at least once between publications. For those wishing to update their 2006 edition, a [Winter 2007 Supplement](#) is available on the [MSP Legal Resources](#) website.

The 2007 edition is tentatively scheduled for release in July.

DID YOU KNOW?

Note: The following material does not represent new law. Instead, it is intended to inform officers of infrequently used laws which might prove useful.

Exceeding authority during the execution of a search warrant can lead to criminal sanctions

[MCL 780.657](#) makes it a one year misdemeanor to willfully exceed the authority granted by a search warrant or to execute a search warrant "with unnecessary severity." In order to avoid liability under this section, officers taking part in the execution of a search warrant should always read the search warrant and ensure they understand its scope.

BACK TO BASICS

Note: The following material does not represent new law. Instead, it is intended to reinforce basic rules of law that police officers frequently apply.

Entry into a residence to make an arrest generally requires a search warrant

The statutory authority to enter a residence to make an arrest can be found in [MCL 764.21](#). This statute applies when police have been refused admittance to a residence where the suspect is reasonably suspected to be located. It allows an officer to forcibly enter a residence to make an arrest pursuant to any arrest warrant, or for a felony without a warrant. However, courts have restricted use of the statute as described below.

Felony Arrests

With an Arrest Warrant. In *Payton v. New York*, the U.S. Supreme Court held that a valid felony arrest warrant allows police to enter a suspect's residence to make the arrest when there is reason to believe the suspect is inside.

Without an Arrest Warrant. Unless exigent circumstances exist, police may not enter a residence to make a warrantless felony arrest (*Payton*). This is the rule no matter

who owns the residence and whether or not the suspect is inside. Examples of exigent circumstances justifying entry include hot pursuit and significant and apparent danger to the public or police.

Misdemeanor Arrests

The Michigan Court of Appeals has held that MCL 764.21 does not authorize entry into a residence for a warrantless misdemeanor arrest (*People v. Reinhardt*). The *Payton* rule applies to arrests with a misdemeanor warrant.

Third Party Residences

When the person named in an arrest warrant is located inside a residence owned by a third party, the rule is simple: *Officers must obtain a search warrant or consent before making entry.*

Both the U.S. Supreme Court (*Steagald v. United States*) and the Michigan Court of Appeals (*People v. Stark*) have held that arrest warrants do not authorize entry into third party residences – even when officers are certain the wanted person is inside.

SUBSCRIPTIONS

Officers from any agency are welcome to subscribe to receive the Update via e-mail, and may do so by sending an e-mail to MSPLegal@Michigan.gov. The body of the e-mail must include:

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