



Michigan Supreme Court

State Court Administrative Office

Trial Court Services Division

Michigan Hall of Justice

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Jennifer Warner
Director

MEMORANDUM

DATE: February 4, 2020

TO: District Court Judges
District Court Magistrates
District Court Administrators

FROM: Bobbi Morrow, District Court Analyst

RE: MCR 6.101- Amendment Regarding Complaint Swear To Requirements

Effective January 1, 2020, MCR 6.101(B) was amended to eliminate the requirement to swear under oath before the court. The complaint must instead be signed and verified under MCR 1.109(D)(3). The new language in MCR 6.101 provides that, "[a]ny requirement of law that a complaint filed with the court must be sworn is met by this verification." In other words, a complainant does not have to appear at the courthouse in person, raise their right hand, and swear under oath that the accusations contained in the complaint are true and accurate. Instead, the complainant can sign the complaint verifying that the accusations are true and accurate. Probable cause is not required to file the complaint with the court.

However, a court may only issue an **arrest warrant** if it is first presented with a proper verified complaint and if the court finds probable cause to believe the accused committed the alleged offense. See MCR 6.102. So, while the complaint can be filed with the court, an arrest warrant for that person's arrest cannot be issued until the court finds probable cause. This *may* require sworn testimony from the officer but probable cause may also be based on an affidavit or factual allegations contained in the actual complaint. See MCR 6.102(B).

The misdemeanor complaint form ([DC 225](#)) was recently amended to remove the "subscribed and sworn to before me" language. The form now only includes the verification language. Until e-Filing is fully implemented in courts, we believe that courts and law enforcement will likely maintain the status quo by filing complaints and providing sworn testimony for probable cause in the same way they have always done. However, the change in the court rule allows courts and law enforcement to consider how they might process criminal cases in an electronic environment. For example, if the court accepts the complaint for filing with the verification

February 4, 2020

Page 2

language, and the officer attaches to the complaint a sworn affidavit outlining the necessary probable cause for issuing the arrest warrant, there may not be a need for the officer to appear at the court in person in order for the court to issue the arrest warrant.

If you have any questions, please contact Bobbi Morrow at 517-373-2173 or Michele Muscat at 517-373-3756. We can also be reached by e-mail at trialcourtservices@courts.mi.gov.