

Act No. 251
Public Acts of 1992
Approved by the Governor
November 19, 1992
Filed with the Secretary of State
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**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1992**

Introduced by Reps. Byrum, Scott, Yokich, Porreca, Bartnik, Baade, Dobronski, Gire, Varga, Brown, Pitoniak, Walberg, Perry Bullard, Middleton, Dolan, Bennane, Shugars, Goss, Bankes, Dobb, Hertel, Profit and DeMars

Reps. Allen, Alley, Anthony, Bandstra, Barns, Bender, Bennett, Berman, Bobier, Bodem, Brackenridge, Willis Bullard, Clack, DeBeaussaert, Dresch, Fitzgerald, Gagliardi, Gernaat, Gilmer, Gnodtke, Gubow, Harder, Harrison, Hoekman, Hoffman, Hollister, Horton, Jamian, Jaye, Johnson, Keith, Kilpatrick, Knight, London, McBryde, Middaugh, Munsell, Murphy, Muxlow, Niederstadt, Olshove, Ostling, Palamara, Power, Randall, Robertson, Rocca, Strand, Van Singel, Wallace, Weeks and Joe Young, Jr. named co-sponsors

ENROLLED HOUSE BILL No. 6038

AN ACT to amend section 15b of chapter IV and section 2 of chapter XI of Act No. 175 of the Public Acts of 1927, entitled as amended "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," section 15b of chapter IV as amended by Act No. 230 of the Public Acts of 1983 and section 2 of chapter XI as amended by Act No. 78 of the Public Acts of 1988, being sections 764.15b and 771.2 of the Michigan Compiled Laws; and to add section 2a to chapter XI.

The People of the State of Michigan enact:

Section 1. Section 15b of chapter IV and section 2 of chapter XI of Act No. 175 of the Public Acts of 1927, section 15b of chapter IV as amended by Act No. 230 of the Public Acts of 1983 and section 2 of chapter XI as amended by Act No. 78 of the Public Acts of 1988, being sections 764.15b and 771.2 of the Michigan Compiled Laws, are amended and section 2a is added to chapter XI to read as follows:

CHAPTER IV

Sec. 15b. (1) A peace officer, without a warrant, may arrest and take into custody a person when the peace officer has reasonable cause to believe that all of the following exist:

(a) One of the following injunctive orders:

(i) An injunctive order issued pursuant to section 14 of chapter 84 of the Revised Statutes of 1846, as amended, being section 552.14 of the Michigan Compiled Laws.

(ii) An injunctive order issued by the circuit court as authorized by law and stating on its face the period of time for which the order is valid and specifically restraining or enjoining a spouse, a former spouse, or a person residing or having resided in the same household as the victim from entering onto premises, from assaulting, beating, molesting, or wounding a named person, or from removing minor children from the person having legal custody of the children.

(iii) An injunctive order issued by the circuit court as authorized by law and stating on its face the period of time for which the order is valid and specifically restraining or enjoining a person from engaging in conduct prohibited under section 411h or 411i of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.411h and 750.411i of the Michigan Compiled Laws.

(b) A true copy and proof of service of the order has been filed with the law enforcement agency having jurisdiction of the area in which the moving party resides.

(c) The person named in the order has received notice of the injunctive order.

(d) The person named in the order is acting in violation of the order. A person is in violation of the order if that person commits 1 or more of the following acts specifically enumerated in the order to restrain or enjoin the person from:

(i) Assaulting, beating, molesting, or wounding a named person.

(ii) Removing minor children from a person having legal custody of the children, in violation of custody and visitation orders as issued by the court.

(iii) Entering onto premises.

(iv) Engaging in conduct prohibited under section 411h or 411i of Act No. 328 of the Public Acts of 1931.

(e) The order states on its face that a violation of its terms subjects the person to immediate arrest and to criminal contempt of court and, if found guilty of criminal contempt, the person shall be imprisoned for not more than 90 days and may be fined not more than \$500.00.

(2) A person arrested pursuant to this section shall be brought before the circuit court having jurisdiction in the cause within 24 hours after arrest to answer to a charge of contempt for violation of the injunctive order, at which time the court shall do each of the following:

(a) Set a time certain for a hearing on the alleged violation of the injunctive order within 72 hours after arrest, unless extended by the court on the motion of the arrested person.

(b) Set a reasonable bond pending a hearing of the alleged violation of the injunctive order.

(c) Notify the party who has procured the injunctive order and direct the party to appear at the hearing and give evidence on the charge of contempt.

(3) In circuits where the circuit court judge may not be present or available within 24 hours after arrest, a person arrested pursuant to this section shall be taken before the district court within 24 hours after arrest, at which time the district court shall order the defendant to appear before the circuit court of the county for a hearing on the charge. The district court shall set bond for the person.

(4) The circuit court for each county of this state shall have jurisdiction to conduct contempt proceedings based upon a violation of an injunctive order as provided in this section, which is issued by the circuit court in any county of this state. The court of arraignment shall notify the circuit court which issued the injunctive order that the issuing court may request that the defendant be returned to that county for violating the injunctive order. If the circuit court which issued the injunctive order requests that the defendant be returned to that county to stand trial, then the requesting county shall bear the cost of transporting the defendant to that county.

(5) Upon receipt of a true copy and proof of service of an injunctive order issued pursuant to this section, the law enforcement agency shall enter the order into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, Act No. 163 of the Public Acts of 1974, being sections 28.211 to 28.216 of the Michigan Compiled Laws.

CHAPTER XI

Sec. 2. (1) Except as provided in section 2a of this chapter, if the defendant is convicted for an offense which is not a felony, the period of probation shall not exceed 2 years. Except as provided in section 2a of this chapter, if the defendant is convicted of a felony which is not a major controlled substance offense, the period of probation shall not exceed 5 years.

(2) The court shall by order, to be filed or entered in the cause as the court may direct by general rule or in each case, fix and determine the period and conditions of probation. The order, whether it is filed or entered, shall be considered as part of the record in the cause and shall be at all times alterable and amendable, both in form and in substance, in the court's discretion.

(3) A defendant who is placed on probation pursuant to section 1(3) of this chapter shall be placed on probation for life. That sentence may be made subject to conditions of probation specified in section 3 of this chapter and to revocation for violation of those conditions, but the period of probation shall not be reduced other than by a revocation which results in imprisonment.

(4) Subsections (1) and (3) do not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to a state institution or agency described in the youth rehabilitation services act, Act No. 150 of the Public Acts of 1974, being sections 803.301 to 803.309 of the Michigan Compiled Laws.

Sec. 2a. (1) The court may place an individual convicted of violating section 411h of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.411h of the Michigan Compiled Laws, on probation for not more than 5 years. The sentence is subject to the conditions of probation set forth in section 411h(3) of Act No. 328 of the Public Acts of 1931 and section 3 of this chapter. The probation is subject to revocation for any violation of a condition of that probation.

(2) The court may place an individual convicted of violating section 411i of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.411i of the Michigan Compiled Laws, on probation for any term of years, but not less than 5 years. The sentence is subject to the conditions of probation set forth in section 411i(4) of Act No. 328 of the Public Acts of 1931 and section 3 of this chapter. The probation is subject to revocation for any violation of a condition of that probation.

(3) The court shall by order, to be filed or entered in the cause as the court directs by general rule or in each case, fix and determine the period and conditions of probation. The order, whether it is filed or entered, shall be considered as part of the record in the cause and shall be at all times alterable and amendable, both in form and in substance, in the court's discretion.

(4) This section does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to a state institution or agency described in the youth rehabilitation services act, Act No. 150 of the Public Acts of 1974, being sections 803.301 to 803.309 of the Michigan Compiled Laws.

Section 2. This amendatory act shall not take effect unless all of the following bills of the 86th Legislature are enacted into law:

- (a) Senate Bill No. 719.
- (b) House Bill No. 5472.
- (c) Senate Bill No. 1095.

Section 3. This amendatory act shall take effect January 1, 1993.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved _____

Governor.

