

HOUSE BILL No. 5422

January 8, 1992, Introduced by Reps. Fitzgerald, Power, Bandstra, Munsell, Martin, Hoekman, Willis Bullard, Johnson, Strand, Horton, Nye, McNutt, Dalman, Hoffman and Bobier and referred to the Committee on Judiciary.

A bill to amend section 15b of chapter IV of Act No. 175 of the Public Acts of 1927, entitled as amended "The code of criminal procedure," as amended by Act No. 230 of the Public Acts of 1983, being section 764.15b of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 15b of chapter IV of Act No. 175 of the
2 Public Acts of 1927, as amended by Act No. 230 of the Public Acts
3 of 1983, being section 764.15b of the Michigan Compiled Laws, is
4 amended to read as follows:

CHAPTER IV

5
6 Sec. 15b. (1) A peace officer, without a warrant, may
7 arrest and take into custody a person when the peace officer has
8 reasonable cause to believe that all of the following exist:

1 (a) One of the following injunctive orders:

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

5 (ii) An injunctive order issued by the circuit court as
6 authorized by law and stating on its face the period of time for
7 which the order is valid and specifically restraining or enjoin-
8 ing a spouse, a former spouse, or a person residing or having
9 resided in the same household as the victim from entering onto
10 premises, from assaulting, beating, molesting, or wounding a
11 named person, FROM THREATENING TO KILL OR PHYSICALLY INJURE A
12 NAMED PERSON, or from removing minor children from the person
13 having legal custody of the children.

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

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

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

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

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

1 (iii) Entering onto premises.

2 (iv) THREATENING TO KILL OR PHYSICALLY INJURE A NAMED
3 PERSON.

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

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

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

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

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

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

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

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

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

21 (a) Senate Bill No. _____ or House Bill No. 5420
 22 (request no. 04687'91 a).

23 (b) Senate Bill No. _____ or House Bill No. 5421
 24 (request no. 04687'91 b).