

# HOUSE BILL No. 5545

February 20, 1992, Introduced by Reps. Clack, Gire, Baade, Perry Bullard, Hickner, Dobb, Fitzgerald, Olshove, Gubow and Berman and referred to the Committee on Judiciary.

A bill to amend section 4a of chapter IX of Act No. 175 of the Public Acts of 1927, entitled as amended "The code of criminal procedure," as amended by Act No. 471 of the Public Acts of 1980, being section 769.4a of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Section 4a of chapter IX of Act No. 175 of the  
2 Public Acts of 1927, as amended by Act No. 471 of the Public Acts  
3 of 1980, being section 769.4a of the Michigan Compiled Laws, is  
4 amended to read as follows:

5       Sec. 4a. (1) When a person, who has not been convicted pre-  
6 viously of a violation of section 81 or 81a of Act No. 328 of  
7 the Public Acts of 1931, as amended, being sections 750.81 and  
8 750.81a of the Michigan Compiled Laws, and the victim of the  
9 assault is the offender's spouse, former spouse, or a person

1 residing or having resided in the same household as the victim,  
2 pleads guilty to, or is found guilty of, a violation of section  
3 81 or 81a of Act No. 328 of the Public Acts of 1931, as amended,  
4 the court, without entering a judgment of guilt, and with the  
5 consent of the accused, may defer further proceedings and place  
6 the accused on probation as provided in this section. Upon a  
7 violation of a term or condition of probation, the court may  
8 enter an adjudication of guilt and proceed as otherwise provided  
9 in this chapter.

10 (2) An order of probation entered under subsection (1) may  
11 require the accused to participate in a mandatory counseling  
12 program. The court may order the accused to pay the reasonable  
13 costs of the program.

14 (3) Upon fulfillment of the terms and conditions, the court  
15 shall discharge the person and dismiss the proceedings against  
16 the person. Discharge and dismissal under this section shall be  
17 without adjudication of guilt and is not a conviction for pur-  
18 poses of this section or for purposes of disqualifications or  
19 disabilities imposed by law upon conviction of a crime.

20 (4) There may be only ~~2 discharges and dismissals~~ 1 DIS-  
21 CHARGE AND DISMISSAL under this section with respect to any  
22 person. The department of state police shall retain a nonpublic  
23 record of an arrest and discharge or dismissal under this  
24 section. This record shall be furnished to a court or police  
25 agency upon request for the purpose of showing that a defendant  
26 in a criminal action under section 81 or 81a of Act No. 328 of

1 the Public Acts of 1931, as amended, has already once availed  
2 himself or herself of this section.