

HOUSE BILL No. 5832

May 11, 1992, Introduced by Reps. Johnson,*Perry Bullard, Hertel, Dalman, Hollister, Munsell, Bartnik, Bankes, Goss, Dolan, Fitzgerald, Jamian, Bobier, Bodem, Harder, Martin, Gilmer, Berman, DeBeaussaert, Barns, Gubow, Emerson, Brown, Ostling, Gire, O'Neill, Van Singel, Bandstra, Willis Bullard, Owen, Walberg, Bryant, Robertson, Scott, Byrum, Kilpatrick, Stallworth, Wallace, Yokich, Harrison, DeMars, Joe Young, Sr., Webb, O'Connor, Sparks, Bender, Randall, Strand, Dobb, Nye, Porreca, Profit, Bennane, Hood, DeLange, Oxender, Ciaramitaro, Dresch, Jonker, McNutt, Middleton, Middaugh, London, Brackenridge, Horton, Knight, Jondahl, Gernaat, Joe Young, Jr., Kosteva, Richard A. Young, Dobronski, Baade, Weeks, Bennett, Niederstadt, Murphy, Rocca, Keith, Clarke, Mathieu, Muxlow, Trim, Stopczynski, Allen, Alley, Olshove and McBryde and referred to the Committee on Judiciary.

A bill to amend chapter IV of Act No. 175 of the Public Acts of 1927, entitled as amended

"The code of criminal procedure,"

as amended, being sections 764.1 to 764.29 of the Michigan Compiled Laws, by adding section 30.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Chapter IV of Act No. 175 of the Public Acts of
2 1927, as amended, being sections 764.1 to 764.29 of the Michigan
3 Compiled Laws, is amended by adding section 30 to read as
4 follows:

CHAPTER IV

6 SEC. 30. (1) NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE DATE
7 OF THIS SECTION, EACH LAW ENFORCEMENT AGENCY IN THIS STATE SHALL
8 DEVELOP, ADOPT, AND IMPLEMENT A POLICY FOR RESPONSE TO DOMESTIC
9 VIOLENCE BY THAT AGENCY'S PEACE OFFICERS. THE POLICY SHALL

1 EMPHASIZE THAT DOMESTIC VIOLENCE IS CRIMINAL CONDUCT AND SHALL
2 MAKE ARREST THE PEACE OFFICER'S PRIMARY OPTION IF PROBABLE CAUSE
3 IS ESTABLISHED.

4 (2) A POLICY ESTABLISHED UNDER THIS SECTION SHALL BE WRITTEN
5 AND AVAILABLE TO THE PUBLIC. THE POLICY SHALL INCLUDE, BUT IS
6 NOT LIMITED TO, PROCEDURES GOVERNING EACH OF THE FOLLOWING:

7 (A) INVESTIGATION OF THE CRIMINAL CONDUCT INCLUDING A DETER-
8 MINATION OF PROBABLE CAUSE.

9 (B) VERIFICATION OF AN INJUNCTION ISSUED UNDER SECTION 14 OF
10 CHAPTER 84 OF THE REVISED STATUTES OF 1846, BEING SECTION 552.14
11 OF THE MICHIGAN COMPILED LAWS, OR SECTION 2950 OF THE REVISED
12 JUDICATURE ACT OF 1961, ACT NO. 236 OF THE PUBLIC ACTS OF 1961,
13 BEING SECTION 600.2950 OF THE MICHIGAN COMPILED LAWS.

14 (C) ARREST OF A PERSON WHO IS PRESENT FOR COMMISSION OF A
15 MISDEMEANOR OR FELONY OR FOR VIOLATION OF AN INJUNCTION. THE
16 PROCEDURES SHALL INCORPORATE THE FOLLOWING POLICIES:

17 (i) A DECISION TO ARREST SHALL NOT BE BASED ON THE VICTIM
18 CONSENTING TO SUBSEQUENT PROSECUTION.

19 (ii) A DECISION NOT TO ARREST SHALL NOT BE BASED SOLELY ON
20 THE ABSENCE OF VISIBLE INDICATIONS OF INJURY OR IMPAIRMENT.

21 (D) ARREST OF A PERSON NOT PRESENT FOR COMMISSION OF A MIS-
22 DEMEANOR OR FELONY OR FOR VIOLATION OF AN INJUNCTION.

23 (E) AVOIDANCE OF DUAL ARRESTS BY DETERMINING THE PRIMARY
24 AGGRESSOR BY CONSIDERING THE RELATIVE SIZE AND STRENGTH OF THE
25 PARTIES AND BY INVESTIGATING WOUNDS TO DETERMINE OFFENSIVE AND
26 DEFENSIVE WOUNDS.

1 (F) PROVISION OF EMERGENCY ASSISTANCE TO VICTIMS INCLUDING,
2 BUT NOT LIMITED TO, MEDICAL CARE, TRANSPORTATION TO A DOMESTIC
3 VIOLENCE SHELTER, AND POLICE PROTECTION WHILE REMOVING PERSONAL
4 PROPERTY.

5 (G) PROVISION OF WRITTEN INFORMATION TO THE VICTIM ABOUT
6 SHELTER PROGRAMS AND LEGAL RIGHTS AS PROVIDED IN SECTION 15C OF
7 THIS CHAPTER.

8 (H) NOTIFICATION TO THE VICTIM OF THE RELEASE PROCEDURE,
9 INCLUDING THE LIKELIHOOD AND PROBABLE TIME OF RELEASE OF AN
10 ARRESTED PERSON, INCLUDING MISDEMEANOR ARRESTS AS PROVIDED IN ACT
11 NO. 44 OF THE PUBLIC ACTS OF 1961, BEING SECTIONS 780.581 TO
12 780.588.

13 (I) PRODUCTION OF WRITTEN REPORTS WHETHER OR NOT AN ARREST
14 IS MADE.

15 (J) TRAINING OF PEACE OFFICERS, DISPATCHERS, AND
16 SUPERVISORS.

17 (K) DISCIPLINE FOR NONCOMPLIANCE WITH THE POLICY.

18 (L) ANNUAL EVALUATIONS OF THE POLICY.

19 (3) IN DEVELOPING THE POLICY UNDER THIS SECTION, A LAW
20 ENFORCEMENT AGENCY SHALL CONSULT WITH ORGANIZATIONS AND OTHER LAW
21 ENFORCEMENT AGENCIES WITH EXPERTISE IN THE RECOGNITION AND HAN-
22 DLING OF DOMESTIC VIOLENCE.

23 (4) AS USED IN THIS SECTION, "DOMESTIC VIOLENCE" MEANS THAT
24 TERM AS DEFINED IN SECTION 1 OF ACT NO. 389 OF THE PUBLIC ACTS OF
25 1978, BEING SECTION 400.1501 OF THE MICHIGAN COMPILED LAWS.