

SENATE BILL No. 144

March 5, 1991, Introduced by Senators VAN REGENMORTER
and SCHWARZ and referred to the Committee on Judiciary.

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

"The code of criminal procedure,"

as amended, being sections 760.1 to 776.21 of the Michigan
Compiled Laws, by adding section 15e to chapter IV.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 175 of the Public Acts of 1927, as
2 amended, being sections 760.1 to 776.21 of the Michigan Compiled
3 Laws, is amended by adding section 15e to chapter IV to read as
4 follows:

5 CHAPTER IV

6 SEC. 15E. (1) A PEACE OFFICER, WITHOUT A WARRANT, MAY
7 ARREST AND TAKE INTO CUSTODY A DEFENDANT WHOM THE PEACE OFFICER
8 HAS REASONABLE CAUSE TO BELIEVE IS VIOLATING OR HAS VIOLATED A
9 CONDITION OF RELEASE IMPOSED UNDER SECTION 6C OF CHAPTER V.

1 (2) IF A PEACE OFFICER ARRESTS A DEFENDANT UNDER SUBSECTION
2 (1), THE PEACE OFFICER SHALL DO ALL OF THE FOLLOWING:

3 (A) PREPARE A COMPLAINT OF VIOLATION OF CONDITIONAL
4 RELEASE. THE PEACE OFFICER SHALL IMMEDIATELY PROVIDE 1 COPY OF
5 THE COMPLAINT TO THE DEFENDANT, THE ORIGINAL AND 1 COPY OF THE
6 COMPLAINT TO THE COURT THAT IMPOSED THE CONDITIONS, AND 1 COPY OF
7 THE COMPLAINT TO THE PROSECUTING ATTORNEY FOR THE CASE IN WHICH
8 THE CONDITIONAL RELEASE WAS GRANTED. THE LAW ENFORCEMENT AGENCY
9 SHALL RETAIN 1 COPY OF THE COMPLAINT. THE COMPLAINT SHALL BE
10 SUBSTANTIALLY IN THE FOLLOWING FORMAT:

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16 COMPLAINT OF VIOLATION OF CONDITIONAL RELEASE

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20 I _____ AM A PEACE OFFICER. I HAVE ASCERTAINED
21 (NAME)

22 BY:

23 _____ L.E.I.N. AND VERIFICATION WITH THE POLICE AGENCY HOLDING

24 THE ORDER

25 _____ CERTIFIED OR TRUE COPY OF ORDER

26 _____ OTHER (DESCRIBE) _____

27 THAT _____ RELEASED _____
28 (COURT) (NAME OF DEFENDANT)

1 SUBJECT TO THE FOLLOWING CONDITIONS: (STATE RELEVANT CONDITIONS)

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12 I HAVE REASONABLE CAUSE TO BELIEVE THAT ON _____
13 (DATE)

14 AT _____ THE DEFENDANT VIOLATED OR ATTEMPTED TO VIOLATE THOSE
15 (TIME)

16 CONDITIONS AS FOLLOWS: (STATE VIOLATIONS OR ATTEMPTED VIOLATIONS)

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18

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24

25

26 _____
(SIGNATURE)

27

28 _____
(DATE)

1 (B) BRING THE DEFENDANT BEFORE THE COURT THAT RELEASED THE
2 DEFENDANT SUBJECT TO CONDITIONS WITHIN 1 BUSINESS DAY FOLLOWING
3 THE DEFENDANT'S ARREST TO ANSWER THE CHARGE OF VIOLATING THE CON-
4 DITIONS OF RELEASE. IF THE COURT IS NOT OPEN WITHIN 24 HOURS
5 FOLLOWING THE DEFENDANT'S ARREST, THE ARRESTING POLICE AGENCY OR
6 OFFICER IN CHARGE OF THE JAIL SHALL, AFTER THE EXPIRATION OF THE
7 24-HOUR PERIOD, RELEASE THE DEFENDANT ON AN INTERIM BOND OF NOT
8 MORE THAN \$500.00 REQUIRING THE DEFENDANT TO APPEAR AT THE OPEN-
9 ING OF COURT THE NEXT BUSINESS DAY. IF, IN THE OPINION OF THE
10 ARRESTING POLICE AGENCY OR OFFICER IN CHARGE OF THE JAIL, IT IS
11 SAFE TO RELEASE THE DEFENDANT PRIOR TO THE EXPIRATION OF THE
12 24-HOUR PERIOD, THE ARRESTING POLICE AGENCY OR OFFICER IN CHARGE
13 OF THE JAIL MAY RELEASE THE DEFENDANT ON INTERIM BOND OF NOT MORE
14 THAN \$500.00 REQUIRING THE DEFENDANT TO APPEAR AT THE OPENING OF
15 COURT THE NEXT BUSINESS DAY.

16 (3) IF A DEFENDANT IS ARRESTED UNDER SUBSECTION (1) FOR VIO-
17 LATING OR ATTEMPTING TO VIOLATE A CONDITION OF RELEASE, THE COURT
18 SHALL DO ALL OF THE FOLLOWING:

19 (A) IMMEDIATELY INFORM THE DEFENDANT OF ALL OF THE
20 FOLLOWING:

21 (i) THE NATURE OF THE ALLEGED VIOLATION.

22 (ii) THAT HE OR SHE HAS A RIGHT TO A HEARING BEFORE THE
23 COURT ON THE ALLEGED VIOLATION, AND THAT THE HEARING MUST BE CON-
24 DUCTED WITHIN 3 BUSINESS DAYS AFTER THE DEFENDANT'S INITIAL
25 APPEARANCE ON THE ALLEGED VIOLATION UNLESS THE 3-DAY PERIOD IS
26 EXTENDED UPON MOTION OF THE DEFENDANT.

1 (iii) THAT HE OR SHE HAS A RIGHT TO BE REPRESENTED BY AN
2 ATTORNEY.

3 (iv) THAT IF THE COURT FINDS THE DEFENDANT IN CONTEMPT OF
4 COURT, THE DEFENDANT MAY HAVE TO PAY A FINE AND COSTS, AND MAY BE
5 SENTENCED TO IMPRISONMENT FOR NOT MORE THAN 30 DAYS OR TO COMMU-
6 NITY SERVICE IN LIEU OF IMPRISONMENT.

7 (v) THAT HE OR SHE MAY ADMIT THE VIOLATION. THE COURT SHALL
8 INFORM THE DEFENDANT THAT IF HE OR SHE ADMITS THE VIOLATION,
9 THERE WILL NOT BE A HEARING, THE COURT MAY ORDER THE DEFENDANT'S
10 BAIL FORFEITED, THE COURT MAY REINSTATE THE ORIGINAL CONDITIONS
11 OF RELEASE OR ESTABLISH REVISED CONDITIONS OF RELEASE, AND THE
12 COURT MAY FIND THE DEFENDANT IN CONTEMPT OF COURT.

13 (B) NOTIFY THE PROSECUTING ATTORNEY, THE DEFENDANT, AND THE
14 DEFENDANT'S ATTORNEY OF THE DATE, TIME, AND LOCATION FOR THE
15 HEARING ON THE ALLEGED VIOLATION.

16 (C) IF THE DEFENDANT DOES NOT ADMIT THE VIOLATION, CONDUCT A
17 HEARING ON THE ALLEGED VIOLATION IN THE SAME MANNER AS FOR ANY
18 OTHER CONTEMPT OF COURT WITHIN 3 BUSINESS DAYS AFTER THE
19 DEFENDANT'S INITIAL APPEARANCE ON THE ALLEGED VIOLATION UNLESS
20 THE 3-DAY PERIOD IS EXTENDED UPON MOTION OF THE DEFENDANT.

21 (4) THIS SECTION DOES NOT PROHIBIT THE COURT FROM CONDUCTING
22 AN IMMEDIATE HEARING ON THE VIOLATION IF THE REQUIREMENTS OF
23 SUBSECTION (3) ARE MET.

24 (5) AFTER A HEARING ON THE ALLEGED VIOLATION, THE COURT
25 SHALL DO 1 OF THE FOLLOWING:

26 (A) FIND THAT THE DEFENDANT VIOLATED THE CONDITIONS OF
27 PRETRIAL RELEASE AND DO 1 OR MORE OF THE FOLLOWING:

1 (i) FIND THE DEFENDANT IN CONTEMPT OF COURT AND DO 1 OR BOTH
2 OF THE FOLLOWING:

3 (A) IMPOSE A FINE OF NOT MORE THAN \$250.00 AND COSTS.

4 (B) SENTENCE THE DEFENDANT TO IMPRISONMENT FOR NOT MORE THAN
5 30 DAYS OR TO COMMUNITY SERVICE IN LIEU OF IMPRISONMENT.

6 (ii) ORDER THE DEFENDANT'S BAIL FORFEITED.

7 (iii) REINSTATE THE ORIGINAL CONDITIONS OF RELEASE.

8 (iv) ESTABLISH REVISED CONDITIONS OF RELEASE.

9 (B) FIND THAT THE DEFENDANT DID NOT VIOLATE THE CONDITIONS
10 OF PRETRIAL RELEASE AND DO 1 OR MORE OF THE FOLLOWING:

11 (i) REINSTATE THE ORIGINAL CONDITIONS OF RELEASE.

12 (ii) ESTABLISH REVISED CONDITIONS OF RELEASE.

13 (6) PENALTIES IMPOSED UNDER THIS SECTION FOR A VIOLATION OF
14 AN ORDER ISSUED UNDER SUBSECTION (1) OF SECTION 6C OF CHAPTER V
15 ARE IN ADDITION TO, BUT NOT IN LIEU OF, ANY PENALTIES THAT MAY BE
16 IMPOSED FOR A VIOLATION OF SECTION 199A OF THE MICHIGAN PENAL
17 CODE, ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING
18 SECTION 750.199A OF THE MICHIGAN COMPILED LAWS.

19 Section 2. This amendatory act shall not take effect unless
20 Senate Bill No. 145

21 of the 86th Legislature is enacted into law.