



**House
Legislative
Analysis
Section**

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DOMESTIC ASSAULT REPORTS, ETC.

**Senate Bill 587 (Substitute H-1)
First Analysis (3-17-94)**

**Sponsor: Senator Jack Welborn
Senate Committee: Judiciary
House Committee: Judiciary**

THE APPARENT PROBLEM:

Despite a growing public awareness about domestic violence and its consequences for family members and society as a whole, and despite the enactment of various laws aimed at reducing domestic violence and providing shelter and services to victims of abuse, domestic violence continues at an alarming rate. Nationwide, some three to four million women annually are physically attacked by their husbands or partners; about four women each day are killed. Michigan's domestic violence figures are equally sobering: in 1991, there was a domestic violence-related homicide every five days. In 1985, local agencies reported 16,576 domestic violence offenses to the Michigan State Police; in 1990, that figure was 25,436; in 1991, 27,201, and in 1992, 29,891. While it is unclear to what degree these figures reflect an increase in reporting, rather than an increase in the rate of violence, it is clear that domestic violence remains a significant problem in this state.

Recommended approaches to dealing with domestic violence include strong and consistent enforcement of laws against domestic assault, and also include ensuring that victims know their options and how they can obtain locally-provided services. Although Michigan law requires a police officer investigating or intervening in a domestic dispute to provide the victim with a notice on the availability of services in the community, the current notice provision has been faulted for, among other things, mentioning a toll-free hotline that does not exist, implying that the victim should contact the local prosecutor regarding pursuing criminal action (when, in fact, working through the arresting officer and local domestic violence programs may be preferable), and failing to provide the victim with information about the arresting officer and the police report. Amendments have been proposed to improve the notice provided to domestic violence victims.

In addition, there are no statutory requirements regarding police reports on domestic disturbances. To standardize police practices and ensure the compilation of useful and complete information, it has been proposed to establish in statute minimum standards for police domestic violence reports.

Finally, the Code of Criminal Procedure contains provisions that allow the court to dismiss a pending prosecution for assault or other misdemeanor for which the victim has a remedy by civil action, if the victim says in writing that he or she has received satisfaction for the harm done by the defendant. Reports are that this device is starting to be used in domestic violence cases, and that prosecutors and others fear that to continue to allow its use would undermine efforts to strengthen the response of the criminal justice system to domestic violence.

THE CONTENT OF THE BILL:

The bill would amend the Code of Criminal Procedure (MCL 764.15c) to revise the notice that police officers must give to domestic violence victims, require each peace officer investigating or intervening in a domestic dispute to prepare a report as prescribed by the bill, and repeal portions of the code that allow the discharge of certain misdemeanor defendants. The bill would take effect July 1, 1994. A more detailed explanation follows.

Victim's notice. The bill would revise the requirements for the notice that a peace officer must give to the victim in a domestic dispute. Newly included would be information on the name and telephone number of the responding police agency, the responding officer's name and badge number, and the victim's right to obtain a copy of the police report. Language mentioning a toll-free hotline and saying that the victim can ask the prosecutor to file a criminal complaint would be deleted. Required information regarding local

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domestic violence services would be expanded to point out that information about emergency shelter, counseling services, and the legal rights of domestic violence victims would be available from those resources. The notice's list of the types of available injunctive orders would be expanded to include injunctions against threats of physical injury (to be authorized under House Bill 4359 and companion legislation), and injunctions against stalking behavior (authorized by Public Act 262 of 1992).

Police reports. A peace officer would have to prepare a domestic violence report after investigating or intervening in a domestic dispute or an incident involving domestic violence. The report would have to include prescribed identifying and descriptive information on the victim and the suspect; the address, date, and time of the incident; and specified identifying information on any witnesses, including children of the victim or suspect, and their relationship to the victim or suspect. The report also would have to include a description of any previous domestic disputes or incidents involving domestic violence between the victim and the suspect.

Additional information on the incident would include the name of the person who called the police; the relationship of the victim and suspect; whether alcohol or drugs were involved; a brief narrative describing the dispute and circumstances that led to it; whether and how many times the suspect assaulted the victim, together with a description of any weapon or object used; a description of all injuries sustained by the victim and an explanation of how they were sustained; information on any medical treatment sought by the victim; and a description of any property damage reported by the victim or evident at the scene.

The law enforcement agency would retain the completed domestic violence report in its files, and send a copy to the local prosecutor within 48 hours after the dispute or incident was reported.

Discharge provisions. The bill would repeal Sections 19 through 22 of the code (MCL 766.19 through 766.22), which authorize the court to discharge someone accused of an assault or other misdemeanor for which the injured party has a remedy by civil action, if the injured party states in writing that he or she has received satisfaction for the injury.

HOUSE COMMITTEE ACTION:

The House Judiciary committee adopted a substitute bill that differed from the Senate-passed version in certain elements of the victim's notice, and in not being tie-barred to 14 other bills dealing with domestic violence.

FISCAL IMPLICATIONS:

With regard to an earlier version of the bill, the Senate Fiscal Agency said that the bill would have an indeterminate fiscal impact on state and local law enforcement agencies. (3-7-94)

ARGUMENTS:

For:

Many perpetrators of domestic violence fail to take responsibility for their actions and blame the victim; to the degree that society fails to hold these people accountable for their actions, it reinforces this belief and decreases the chances that the person will change his or her behavior. Domestic violence is not a private matter, and legal intervention can effectively get this message across. To this end, legislation has been proposed that would strengthen law enforcement response to domestic violence.

The bill, part of this larger package, would further those aims in several ways. It would improve the notice that is given to victims of domestic assaults, thereby increasing the likelihood that they will obtain useful services and information, and perhaps increasing the likelihood that the forces of law will be brought to bear on offenders. It would standardize police reports and ensure that valuable information was collected that could be of use in later investigations, prosecutions, and sentencing. Finally, it would delete some obscure provisions that are developing into a problem in domestic violence cases by enabling offenders to be discharged upon affidavits from possibly intimidated victims.

Against:

There may be alternatives to full repeal of sections that allow minor offenders to be discharged after paying damages. If the problem with those provisions is confined to their application to domestic violence cases, then a more reasonable solution might be to exempt domestic violence cases from the provisions.

POSITIONS:

The Domestic Violence Prevention and Treatment Board supports the bill. (3-15-94)

The Michigan Coalition Against Domestic Violence supports the bill. (3-15-94)

The Prosecuting Attorneys Association of Michigan supports the bill. (3-15-94)

The Michigan Council on Crime and Delinquency supports improving victim notices and standardizing police reports, but opposes the repeal of the discharge provisions. (3-16-94)