



**House  
Legislative  
Analysis  
Section**

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**DOMESTIC VIOLENCE INJUNCTIONS**

**House Bill 4397 with committee  
amendment  
First Analysis (5-5-93)**

**Sponsor: Rep. Dianne Byrum  
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 about 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; and in 1991, 27,201. 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.

Michigan law has since 1983 explicitly allowed the circuit court to issue injunctions prohibiting a person from assaulting a current or former spouse or household member. However, statute does not contemplate court orders to prohibit a person from threatening the physical safety of a current or former partner. As threats represent another form of victimization and often precede acts of violence, it has been suggested that the law also provide for injunctions against threats. House Bills 4357 and 4359 would provide for such injunctions. If the bills are to be enacted, then it makes sense to mention such injunctions in the list of options that a police officer at the scene is supposed to give a victim of domestic violence.

***THE CONTENT OF THE BILL:***

The bill would amend the Code of Criminal Procedure to add an item to the notice that a police office intervening in a domestic violence dispute is

required to give the victim. The notice now includes information on the various kinds of protective injunctions available to the victim; the bill would include a statement that the victim had the right to seek a court order restraining or enjoining the abuser from threatening to kill or physically injure the victim. Such injunctions against threats would be provided for under House Bills 4357 and 4359, to which the bill is tie-barred.

MCL 764.15c

***FISCAL IMPLICATIONS:***

There is no fiscal information at present. (5-4-93)

***ARGUMENTS:***

***For:***

By adding an item to the notice that a police officer must already give a victim of domestic violence, the bill would help to ensure that a domestic violence victim was informed of his or her legal options. The injunctive relief mentioned by the new item would be explicitly authorized by House Bills 4357 and 4359, to which the bill is tied.

***Response:***

The bill misses an opportunity to remedy the defects of the existing notice provision. The notice does not adequately explain whom the victim should contact or how the victim should go about seeking action. For example, the law says that the victim can "ask the county prosecuting attorney to file a criminal complaint," when what a person should do to initiate prosecution is contact the police. It also says that a person has "the right to go to court and file a petition" for a restraining order, but there is no explanation as to how to do that. Rather than prescribe the exact language of the notice, the statute would do better to lay out minimum requirements regarding the type of information to be provided. Domestic violence experts could then

House Bill 4397 (5-5-93)

develop a model form that could be distributed to police agencies and used to comply with the notice requirements.

***POSITIONS:***

The Michigan Coalition Against Domestic Violence supports the bill, but would like it to also address the need for significant changes in this section of law. (5-4-93)

The Michigan Council on Crime and Delinquency supports the bill. (5-4-93)

The Department of State Police supports the bill. (5-5-93)