

Act No. 113
Public Acts of 1993
Approved by the Governor
July 20, 1993
Filed with the Secretary of State
July 20, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Reps. McNutt, Johnson, Berman, Gire, Wallace, Munsell, Dalman, Gilmer, Walberg, Points, Nye, Martin, London, Horton, Bodem, McBryde, Jaye, Hill, Whyman, Brown, Crissman, Bullard and Galloway

ENROLLED HOUSE BILL No. 4205

AN ACT to amend chapter IV of Act No. 175 of the Public Acts of 1927, entitled as amended "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," as amended, being sections 764.1 to 764.29 of the Michigan Compiled Laws, by adding section 15f.

The People of the State of Michigan enact:

Section 1. Chapter IV of Act No. 175 of the Public Acts of 1927, as amended, being sections 764.1 to 764.29 of the Michigan Compiled Laws, is amended by adding section 15f to read as follows:

CHAPTER IV

Sec. 15f. (1) A peace officer, without a warrant, may arrest and take into custody a person if the peace officer has reasonable cause to believe all of the following exist:

(a) The probate court has issued an order pursuant to section 13a(4) of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.13a of the Michigan Compiled Laws, stating on its face the period of time for which the order is valid.

(b) A true copy of the order and proof of service has been filed with the law enforcement agency having jurisdiction of the area in which the person having custody of the child pursuant to section 13a(4) of chapter XIIA of Act No. 288 of the Public Acts of 1939 resides.

(c) The person named in the order has received notice of the order.

(d) The person named in the order is acting in violation of the order.

(e) The order states on its face that a violation of its terms subjects the person to criminal contempt of court and, if found guilty, the person shall be imprisoned for not more than 90 days and may be fined not more than \$500.00.

(2) If a peace officer arrests a person pursuant to this section, the peace officer shall do all of the following:

(a) Prepare a complaint of violation of the order substantially in the following format:

COMPLAINT OF VIOLATION OF CHILD PROTECTIVE ORDER

I _____ am a peace officer. I have determined by:

(name)

____ L.E.I.N. and verification with the police agency holding the order

____ Certified or true copy of order

____ Other (Describe) _____

That _____ Probate court ordered _____
(county) (name)

NOT TO ENTER THE FOLLOWING PREMISES:

I have reasonable cause to believe that on _____ at _____ the person subject to the order
(date) (time)

violated the order as follows:

(state violations)

(Signature of officer)

(Date)

(b) Provide 1 copy of the complaint to the person subject to the order and the original and 1 copy to the court that imposed the conditions. The law enforcement agency shall retain 1 copy of the complaint.

(3) A person arrested pursuant to this section shall be brought before the probate court having jurisdiction in the cause within 24 hours after arrest to answer to a charge of contempt for violation of the order, at which time the court shall do each of the following:

(a) Set a time certain for a hearing on the alleged violation of the order. The hearing shall be conducted within 72 hours after arrest, unless extended by the court on the motion of the arrested person.

(b) Set a reasonable bond pending a hearing of the alleged violation of the order.

(c) Notify the person having custody of the child pursuant to section 13a(4) of chapter XIIA of Act No. 288 of the Public Acts of 1939 and direct that person to appear at the hearing and give evidence on the charge of contempt.

(4) For purposes of this section, a probate judge may arraign, take a plea, or sentence the person for criminal contempt in the same manner that the circuit court may arraign, take a plea, or sentence a person in other criminal cases.

(5) If the probate judge is not present or available within 24 hours after arrest, a person arrested pursuant to this section shall be taken before the district court within 24 hours after arrest, at which time the district court shall order the defendant to appear before the probate court that entered the order for a hearing on the charge. The district court shall set bond for the person.

(6) Upon receipt of a true copy of an order and proof of service pursuant to this section, the law enforcement agency shall enter the order into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, Act No. 163 of the Public Acts of 1974, being sections 28.211 to 28.216 of the Michigan Compiled Laws.

(7) If an order entered pursuant to section 13a(4) of chapter XIIA of Act No. 288 of the Public Acts of 1939 is rescinded, the court shall immediately order the law enforcement agency to remove the order from the law enforcement information network.

Section 2. This amendatory act shall not take effect unless House Bill No. 4206 of the 87th Legislature is enacted into law.

This act is ordered to take immediate effect.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.