

Act No. 418
Public Acts of 1994
Approved by the Governor
January 5, 1995
Filed with the Secretary of State
January 6, 1995

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Senator Gougeon

ENROLLED SENATE BILL No. 1265

AN ACT to amend sections 15b and 15c of chapter IV and section 22 of chapter XVI 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 section 15b of chapter IV as amended by Act No 62 of the Public Acts of 1994 section 15c of chapter IV as amended by Act No 63 of the Public Acts of 1994 and section 22 of chapter XVI as added by Act No 69 of the Public Acts of 1994 being sections 764 15b 764 15c and 776.22 of the Michigan Compiled Laws

The People of the State of Michigan enact

Section 1 Sections 15b and 15c of chapter IV and section 22 of chapter XVI of Act No 175 of the Public Acts of 1927 section 15b of chapter IV as amended by Act No 62 of the Public Acts of 1994 section 15c of chapter IV as amended by Act No 63 of the Public Acts of 1994 and section 22 of chapter XVI as added by Act No 69 of the Public Acts of 1994 being sections 764 15b 764 15c and 776 22 of the Michigan Compiled Laws are amended to read as follows

CHAPTER IV

Sec 15b (1) A peace officer without a warrant may arrest and take into custody an individual when the peace officer has reasonable cause to believe all of the following exist

(a) A personal protection order that is 1 of the following

(i) Issued pursuant to section 2950 of the revised judicature act of 1961 Act No 236 of the Public Acts of 1961 being section 600 2950 of the Michigan Compiled Laws

(ii) Issued pursuant to section 2950a of the revised judicature act of 1961 Act No 236 of the Public Acts of 1961 being section 600 2950a of the Michigan Compiled Laws

(b) The individual named in the personal protection order is in violation of the order An individual is in violation of the order if that individual commits 1 or more of the following acts the order specifically restrains or enjoins the individual from committing

(i) Assaulting attacking beating molesting or wounding a named individual

(ii) Removing minor children from an individual having legal custody of the children except as otherwise authorized by a custody or visitation order issued by a court of competent jurisdiction

(iii) Entering onto premises

(iv) Engaging in conduct prohibited under section 411h or 411i of Act No 328 of the Public Acts of 1931

(v) Threatening to kill or physically injure a named individual

(vi) Beginning April 1 1996 purchasing or possessing a firearm

(vii) Interfering with petitioner's efforts to remove petitioner's children or personal property from premises that are solely owned or leased by the individual to be restrained or enjoined

(viii) Interfering with petitioner at petitioner's place of employment or engaging in conduct that impairs petitioner's employment relationship or environment

(ix) Any other act or conduct specified by the court in the personal protection order

(c) The personal protection order states on its face that a violation of its terms subjects the individual to immediate arrest and to criminal contempt of court and if found guilty of criminal contempt the individual shall be imprisoned for not more than 93 days and may be fined not more than \$500 00

(2) An individual arrested pursuant to this section shall be brought before the circuit court having jurisdiction in the cause within 24 hours after arrest to answer to a charge of contempt for violation of the personal protection 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 personal protection order within 72 hours after arrest unless extended by the court on the motion of the arrested individual or the prosecuting attorney

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

(c) Notify the prosecuting attorney of the criminal contempt proceeding

(d) Notify the party who has procured the personal protection order and his or her attorney of record if any and direct the party to appear at the hearing and give evidence on the charge of contempt

(3) In circuits where the circuit court judge may not be present or available within 24 hours after arrest an individual arrested under 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 circuit court of the county for a hearing on the charge The district court shall set bond for the individual

(4) The circuit court for each county of this state has jurisdiction to conduct contempt proceedings based upon a violation of a personal protection order described in this section issued by the circuit court in any county of this state The court of arraignment shall notify the circuit court that issued the personal protection order that the issuing court may request that the defendant be returned to that county for violating the personal protection order If the circuit court that issued the personal protection order requests that the defendant be returned to that county to stand trial the requesting county shall bear the cost of transporting the defendant to that county

(5) The prosecuting attorney shall prosecute a criminal contempt proceeding initiated by the court under subsection (2) unless the party who procured the personal protection order retains his or her own attorney for the criminal contempt proceeding If the prosecuting attorney prosecutes the criminal contempt proceeding the court shall grant an adjournment for not less than 14 days or a lesser period requested if the prosecuting attorney moves for adjournment If the prosecuting attorney prosecutes the criminal contempt proceeding the court may dismiss the proceeding upon motion of the prosecuting attorney for good cause shown

(6) Upon receiving a true copy of a personal protection order issued in compliance with 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

Sec 15c (1) After investigating or intervening in a domestic dispute as described in section 15a or 15b of this chapter a peace officer shall provide the victim with a copy of the notice in this section. The notice shall be written and shall include all of the following:

- (a) The name and telephone number of the responding police agency
- (b) The name and badge number of the responding peace officer
- (c) The following statement:

You may obtain a copy of the police incident report for your case by contacting this law enforcement agency at the telephone number provided:

The domestic violence shelter program and other resources in your area are (include local information):

Information about emergency shelter, counseling services, and the legal rights of domestic violence victims is available from these resources:

Your legal rights include the right to go to court and file a petition requesting a personal protection order to protect you or other members of your household from domestic abuse which could include the following:

- (a) An order restraining or enjoining the abuser from entering onto premises
- (b) An order restraining or enjoining the abuser from assaulting, attacking, beating, molesting, or wounding you
- (c) An order restraining or enjoining the abuser from threatening to kill or physically injure you or another person
- (d) An order restraining or enjoining the abuser from removing minor children from you, except as otherwise authorized by a custody or visitation order issued by a court of competent jurisdiction
- (e) An order restraining or enjoining the abuser from engaging in stalking behavior
- (f) Beginning April 1, 1996, an order restraining or enjoining the abuser from purchasing or possessing a firearm
- (g) An order restraining or enjoining the abuser from interfering with your efforts to remove your children or personal property from premises that are solely owned or leased by the abuser
- (h) An order restraining or enjoining the abuser from interfering with you at your place of employment or engaging in conduct that impairs your employment relationship or environment
- (i) An order restraining or enjoining the abuser from engaging in any other specific act or conduct that imposes upon or interferes with your personal liberty or that causes a reasonable apprehension of violence

(2) The peace officer shall prepare a domestic violence report after investigating or intervening in a domestic dispute or an incident involving domestic violence as described in subsection (1). The report shall contain, but is not limited to, containing all of the following:

- (a) The address, date, and time of the occurrence or incident being investigated
- (b) The victim's name, address, home and work telephone numbers, race, sex, and date of birth
- (c) The suspect's name, address, home and work telephone numbers, race, sex, date of birth, and information describing the suspect and whether an injunction or restraining order covering the suspect exists
- (d) The name, address, home and work telephone numbers, race, sex, and date of birth of any witness, including a child of the victim or suspect, and the relationship of the witness to the suspect or victim
- (e) The following information about the occurrence or incident being investigated:
 - (i) The name of the person that called the law enforcement agency
 - (ii) The relationship of the victim and suspect
 - (iii) Whether alcohol or controlled substance use was involved in the occurrence or incident, and by whom
 - (iv) A brief narrative describing the dispute or incident and the circumstances that led to it
 - (v) Whether and how many times the suspect physically assaulted the victim and a description of any weapon or object used
 - (vi) A description of all injuries sustained by the victim and an explanation of how the injuries were sustained
 - (vii) If the victim sought medical attention, information concerning where and how the victim was transported, whether the victim was admitted to a hospital or clinic for treatment, and the name and telephone number of the attending physician
 - (viii) A description of any property damage reported by the victim or evident at the scene
- (f) A description of any previous domestic disputes or incidents involving domestic violence between the victim and the suspect

(g) The date and time of the report and the name badge number and signature of the peace officer completing the report

(3) The law enforcement agency shall retain the completed domestic violence report in its files. The law enforcement agency shall also file a copy of the completed domestic violence report with the prosecuting attorney within 48 hours after the dispute or incident is reported to the law enforcement agency

CHAPTER XVI

Sec 22 (1) Each police agency in this state shall by January 1 1995 develop adopt and implement written policies for police officers responding to domestic violence calls. The policies shall reflect that domestic violence is criminal conduct

(2) Each police agency shall consult with the prosecuting attorney and with an area shelter for victims of domestic violence in the development implementation including training and evaluation of the policies and standards

(3) The policies shall address but not be limited to addressing all of the following

(a) Procedures for conducting a criminal investigation with specific standards for misdemeanor and felony arrests

(b) Procedures for making a criminal arrest. The procedures shall emphasize all of the following

(i) In most circumstances an officer should arrest and take an individual into custody if the officer has probable cause to believe the individual is committing or has committed domestic violence and his or her actions constitute a crime

(ii) When the officer has probable cause to believe spouses former spouses individuals who have had a child in common or other individuals who reside together or formerly resided together are committing or have committed crimes against each other the officer when determining whether to make an arrest of 1 or both individuals should consider the intent of this section to protect victims of domestic violence the degree of injury inflicted on the individuals involved the extent to which the individuals have been put in fear of physical injury to themselves or other members of the household and any history of domestic violence between the individuals if that history can reasonably be ascertained by the officer. In addition the officer should not arrest an individual if the officer has reasonable cause to believe the individual was acting in lawful self defense or in lawful defense of another individual

(iii) A police officer's decision as to whether to arrest an individual should not be based solely on the consent of the victim to any subsequent prosecution or on the relationship of the individuals involved in the incident

(iv) A police officer's decision not to arrest an individual should not be based solely upon the absence of visible indications of injury or impairment

(c) Procedures for denial of interim bond as provided in Act No 44 of the Public Acts of 1961 being sections 780 581 to 780 588 of the Michigan Compiled Laws

(d) Procedures for verifying a personal protection order issued under section 2950 or 2950a of the revised judiciary act of 1961 Act No 236 of the Public Acts of 1961 being sections 600 2950 and 600 2950a of the Michigan Compiled Laws

(e) Procedures for making an arrest for a violation of a personal protection order

(f) Procedures for providing or arranging for emergency assistance to victims including but not limited to medical care transportation to a shelter or remaining at the scene of an alleged incident of domestic violence for a reasonable time until in the reasonable judgment of the police officer the likelihood of further imminent violence has been eliminated

(g) Procedures for informing the victim of community services and legal options that are available pursuant to section 15c of chapter IV of this act

(h) Procedures for preparing a written report whether or not an arrest is made

(i) Training of peace officers dispatchers and supervisors

(j) Discipline for noncompliance with the policy

(k) Annual evaluations of the policy

(4) The local policies developed adopted and implemented pursuant to this section shall be in writing and shall be available to the public upon request

Section 2 This amendatory act shall take effect on April 1 1995

Section 3 This amendatory act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law

- (a) Senate Bill No 1264 or House Bill No 5804
- (b) Senate Bill No 1266 or House Bill No 5805
- (c) Senate Bill No 1267 or House Bill No 5807
- (d) Senate Bill No 1268 or House Bill No 5808

Secretary of the Senate

Co Clerk of the House of Representatives

Approved

Governor