



HOUSE BILL No. 4358

February 24, 1993, Introduced by Reps. Baade, DeMars, Dobronski, Gire, Byrum, Sikkema, Rivers, Wallace, Leland, Dolan, Gubow, Bullard, Clack, Johnson, Brown, Dobb, Gernaat, Yokich, Agee, Stallworth, Harder, Bennane, Freeman, Olshove, Stille, Saunders and McBryde and referred to the Committee on Judiciary.

A bill to amend section 15b of chapter IV of Act No. 175 of the Public Acts of 1927, entitled as amended

"The code of criminal procedure,"

as amended by Act No. 251 of the Public Acts of 1992, being section 764.15b of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 15b of chapter IV of Act No. 175 of the
2 Public Acts of 1927, as amended by Act No. 251 of the Public Acts
3 of 1992, being section 764.15b of the Michigan Compiled Laws, is
4 amended to read as follows:

5 CHAPTER IV

6 Sec. 15b. (1) A peace officer, without a warrant, may
7 arrest and take into custody a person when the peace officer has
8 reasonable cause to believe ~~that~~ all of the following exist:

1 (a) ~~One of the following~~ AN injunctive ~~orders~~ ORDER THAT
2 IS 1 OF THE FOLLOWING:

3 (i) ~~An injunctive order issued~~ ISSUED pursuant to
4 section 14 of chapter 84 of the Revised Statutes of 1846, as
5 amended, being section 552.14 of the Michigan Compiled Laws.

6 (ii) ~~An injunctive order issued~~ ISSUED by the circuit
7 court as authorized by law and stating on its face the period of
8 time for which the order is valid and specifically restraining or
9 enjoining a spouse, a former spouse, or a person residing or
10 having resided in the same household as the victim from entering
11 onto premises, from assaulting, beating, molesting, or wounding a
12 named person, or from removing minor children from the person
13 having legal custody of the children.

14 (iii) ~~An injunctive order issued~~ ISSUED by the circuit
15 court as authorized by law and stating on its face the period of
16 time for which the order is valid and specifically restraining or
17 enjoining a person from engaging in conduct prohibited under
18 section 411h or 411i of the Michigan penal code, Act No. 328 of
19 the Public Acts of 1931, being sections 750.411h and 750.411i of
20 the Michigan Compiled Laws.

21 (b) A true copy and proof of service of the order has been
22 filed with the law enforcement agency having jurisdiction of the
23 area in which the moving party resides.

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

26 (d) The person named in the order is ~~acting in violation~~
27 ~~of~~ VIOLATING the order. A person is ~~in violation of~~ VIOLATING

1 the order if that person commits 1 or more of the following acts
2 ~~specifically enumerated in~~ the order ~~to restrain~~ SPECIFICALLY
3 RESTRAINS or ~~enjoin~~ ENJOINS the person from COMMITTING:

4 (i) Assaulting, beating, molesting, or wounding a named
5 person.

6 (ii) Removing minor children from a person having legal cus-
7 tody of the children, in violation of custody and visitation
8 orders as issued by the court.

9 (iii) Entering onto premises.

10 (iv) Engaging in conduct prohibited under section 411h or
11 411i of Act No. 328 of the Public Acts of 1931.

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

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

22 (a) Set a time certain for a hearing on the alleged viola-
23 tion of the injunctive order within 72 hours after arrest, unless
24 extended by the court on the motion of the arrested person.

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

1 (C) NOTIFY THE PROSECUTING ATTORNEY OF THE CRIMINAL CONTEMPT
2 PROCEEDING.

3 (D) ~~(c)~~ Notify the party who has procured the injunctive
4 order AND HIS OR HER ATTORNEY OF RECORD, IF ANY, and direct the
5 party to appear at the hearing and give evidence on the charge of
6 contempt.

7 (3) In circuits where the circuit court judge may not be
8 present or available within 24 hours after arrest, a person
9 arrested pursuant to this section shall be taken before the dis-
10 trict court within 24 hours after arrest, at which time the dis-
11 trict court shall order the defendant to appear before the cir-
12 cuit court of the county for a hearing on the charge. The dis-
13 trict court shall set bond for the person.

14 (4) The circuit court for each county of this state ~~shall~~
15 ~~have~~ HAS jurisdiction to conduct contempt proceedings based upon
16 a violation of an injunctive order ~~as provided in~~ UNDER this
17 section ~~, which~~ THAT is issued by the circuit court in any
18 county of this state. The court of arraignment shall notify the
19 circuit court ~~which~~ THAT issued the injunctive order that the
20 issuing court may request that the defendant be returned to that
21 county for violating the injunctive order. If the circuit court
22 ~~which~~ THAT issued the injunctive order requests that the
23 defendant be returned to that county to stand trial, ~~then~~ the
24 requesting county shall bear the cost of transporting the
25 defendant to that county.

26 (5) THE PROSECUTING ATTORNEY SHALL PROSECUTE A CRIMINAL
27 CONTEMPT PROCEEDING INITIATED BY THE COURT PURSUANT TO SUBSECTION

1 (2), UNLESS THE PARTY WHO PROCURED THE INJUNCTIVE ORDER RETAINS
2 HIS OR HER OWN ATTORNEY FOR THE CRIMINAL CONTEMPT PROCEEDING.

3 (6) ~~(5)~~ Upon receipt of a true copy and proof of service
4 of an injunctive order issued pursuant to this section, the law
5 enforcement agency shall enter the order into the law enforcement
6 information network as provided by the L.E.I.N. policy council
7 act of 1974, Act No. 163 of the Public Acts of 1974, being sec-
8 tions 28.211 to 28.216 of the Michigan Compiled Laws.