



HOUSE BILL No. 4360

February 24, 1993, Introduced by Reps. Johnson, Gire, Weeks, Gubow, Dalman, Byrum, Bankes, McBryde, Clack, Dolan, Gilmer, Berman, Whyman, Goschka, Oxender, Middleton, Points, Bobier, Rocca, Brown, McManus, London, Leland, Stille, Bullard, Freeman and DeMars and referred to the Committee on Judiciary.

A bill to amend chapter XVI of Act No. 175 of the Public Acts of 1927, entitled as amended "The code of criminal procedure," as amended, being sections 776.6 to 776.21 of the Michigan Compiled Laws, by adding section 22.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Chapter XVI of Act No. 175 of the Public Acts of
2 1927, as amended, being sections 776.6 to 776.21 of the Michigan
3 Compiled Laws, is amended by adding section 22 to read as
4 follows:

5 CHAPTER XVI

6 SEC. 22. (1) EACH POLICE AGENCY IN THIS STATE SHALL, BY
7 JANUARY 1, 1994, DEVELOP, ADOPT, AND IMPLEMENT WRITTEN POLICIES
8 FOR POLICE OFFICERS RESPONDING TO DOMESTIC VIOLENCE CALLS. THE

1 POLICIES SHALL REFLECT THAT DOMESTIC VIOLENCE IS CRIMINAL
2 CONDUCT.

3 (2) EACH POLICE AGENCY SHALL CONSULT WITH AN AREA SHELTER
4 FOR VICTIMS OF DOMESTIC VIOLENCE IN THE DEVELOPMENT, IMPLEMENTA-
5 TION, INCLUDING TRAINING, AND EVALUATION OF THE POLICIES AND
6 STANDARDS.

7 (3) THE POLICIES SHALL ADDRESS, BUT NOT BE LIMITED TO
8 ADDRESSING, ALL OF THE FOLLOWING:

9 (A) PROCEDURES FOR CONDUCTING A CRIMINAL INVESTIGATION WITH
10 SPECIFIC STANDARDS FOR MISDEMEANOR AND FELONY ARRESTS.

11 (B) PROCEDURES FOR MAKING A CRIMINAL ARREST. THE PROCEDURES
12 SHALL EMPHASIZE ALL OF THE FOLLOWING:

13 (i) IN MOST CIRCUMSTANCES, AN OFFICER SHOULD ARREST AND TAKE
14 A PERSON INTO CUSTODY IF THE OFFICER HAS PROBABLE CAUSE TO
15 BELIEVE THE PERSON IS COMMITTING OR HAS COMMITTED DOMESTIC VIO-
16 LENCE AND HIS OR HER ACTIONS CONSTITUTE A CRIME.

17 (ii) WHEN THE OFFICER HAS PROBABLE CAUSE TO BELIEVE SPOUSES,
18 FORMER SPOUSES, OR OTHER INDIVIDUALS WHO RESIDE TOGETHER OR
19 FORMERLY RESIDED TOGETHER ARE COMMITTING OR HAVE COMMITTED CRIMES
20 AGAINST EACH OTHER, THE OFFICER, WHEN DETERMINING WHETHER TO MAKE
21 AN ARREST OF 1 OR BOTH INDIVIDUALS, SHOULD CONSIDER THE INTENT OF
22 THIS SECTION TO PROTECT VICTIMS OF DOMESTIC VIOLENCE, THE RELA-
23 TIVE DEGREE OF INJURY OR FEAR INFLICTED ON THE INDIVIDUALS
24 INVOLVED, AND ANY HISTORY OF DOMESTIC VIOLENCE BETWEEN THE INDI-
25 VIDUALS, IF THAT HISTORY CAN REASONABLY BE ASCERTAINED BY THE
26 OFFICER. IN ADDITION, THE OFFICER SHOULD NOT ARREST AN
27 INDIVIDUAL IF THE OFFICER HAS REASONABLE CAUSE TO BELIEVE THE

1 INDIVIDUAL WAS ACTING IN LAWFUL SELF-DEFENSE OR IN LAWFUL DEFENSE
2 OF ANOTHER INDIVIDUAL.

3 (iii) A POLICE OFFICER'S DECISION AS TO WHETHER OR NOT TO
4 ARREST AN INDIVIDUAL SHOULD NOT BE BASED ON THE CONSENT OF THE
5 VICTIM TO ANY SUBSEQUENT PROSECUTION OR ON THE RELATIONSHIP OF
6 THE INDIVIDUALS INVOLVED IN THE INCIDENT.

7 (iv) A POLICE OFFICER'S DECISION NOT TO ARREST AN INDIVIDUAL
8 SHOULD NOT BE BASED SOLELY UPON THE ABSENCE OF VISIBLE INDICA-
9 TIONS OF INJURY OR IMPAIRMENT.

10 (C) PROCEDURES FOR DENIAL OF INTERIM BOND, AS PROVIDED IN
11 ACT NO. 44 OF THE PUBLIC ACTS OF 1961, BEING SECTIONS 780.581 TO
12 780.588 OF THE MICHIGAN COMPILED LAWS.

13 (D) PROCEDURES FOR VERIFYING AN INJUNCTION ISSUED UNDER SEC-
14 TION 14 OF CHAPTER 84 OF THE REVISED STATUTES OF 1846, BEING SEC-
15 TION 552.14 OF THE MICHIGAN COMPILED LAWS, OR SECTION 2950 OF THE
16 REVISED JUDICATURE ACT OF 1961, ACT NO. 236 OF THE PUBLIC ACTS OF
17 1961, BEING SECTION 600.2950 OF THE MICHIGAN COMPILED LAWS.

18 (E) PROCEDURES FOR MAKING AN ARREST FOR A VIOLATION OF A
19 DOMESTIC ABUSE INJUNCTION.

20 (F) PROCEDURES FOR EMERGENCY ASSISTANCE TO VICTIMS INCLUD-
21 ING, BUT NOT LIMITED TO, MEDICAL CARE, TRANSPORTATION TO A SHEL-
22 TER, OR REMAINING AT THE SCENE OF AN ALLEGED INCIDENT OF DOMESTIC
23 VIOLENCE FOR A REASONABLE TIME UNTIL, IN THE REASONABLE JUDGMENT
24 OF THE POLICE OFFICER, THE LIKELIHOOD OF FURTHER IMMINENT VIO-
25 LENCE HAS BEEN ELIMINATED. THIS ASSISTANCE SHALL ALSO BE AVAIL-
26 ABLE IN CASES IN WHICH THE POLICE OFFICER HAS DETERMINED THAT NO
27 PROBABLE CAUSE EXISTS FOR AN ARREST.

1 (G) PROCEDURES FOR INFORMING THE VICTIM OF COMMUNITY
2 SERVICES AND LEGAL OPTIONS THAT ARE AVAILABLE PURSUANT TO SECTION
3 15C OF CHAPTER IV OF THIS ACT.

4 (H) PROCEDURES FOR PREPARING A WRITTEN REPORT, WHETHER OR
5 NOT AN ARREST IS MADE, TO DOCUMENT THE PRESENCE OR ABSENCE OF
6 PROBABLE CAUSE FOR MAKING AN ARREST.

7 (I) TRAINING OF PEACE OFFICERS, DISPATCHERS, AND
8 SUPERVISORS.

9 (J) DISCIPLINE FOR NONCOMPLIANCE WITH THE POLICY.

10 (K) ANNUAL EVALUATIONS OF THE POLICY.

11 (4) THE LOCAL POLICIES DEVELOPED, ADOPTED, AND IMPLEMENTED
12 PURSUANT TO THIS SECTION SHALL BE IN WRITING AND SHALL BE AVAIL-
13 ABLE TO THE PUBLIC UPON REQUEST.