

Act No. 475
Public Acts of 1998
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Rep. Kilpatrick

Reps. Agee, Anthony, Baade, Basham, Bogardus, DeHart, Dobb, Gagliardi, Hanley, Horton, Jansen, Jelinek, Kelly, Kukuk, LaForge, Law, Llewellyn, McBryde, Nye, Parks, Prusi, Rison, Rocca, Sanborn, Scott, Stallworth, Varga, Vaughn, Voorhees and Wojno named co-sponsors

ENROLLED HOUSE BILL No. 5567

AN ACT to amend 1927 PA 175, entitled "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 establish a sentencing commission and to prescribe its powers and duties; 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," by amending sections 15b and 15c of chapter IV (MCL 764.15b and 764.15c), as amended by 1996 PA 15.

The People of the State of Michigan enact:

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 apply:

(a) A personal protection order has been issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a.

(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 parenting time order issued by a court of competent jurisdiction.

(iii) Entering onto premises.

(iv) Engaging in conduct prohibited under section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i.

(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 education or engaging in conduct that impairs petitioner's employment or educational 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 either of the following:

(i) If the individual restrained or enjoined is 17 years of age or older, to criminal contempt of court and, if found guilty of criminal contempt, to imprisonment for not more than 93 days and to a fine of not more than \$500.00.

(ii) If the individual restrained or enjoined is less than 17 years of age, to the dispositional alternatives listed in section 18 of chapter XIIA of the probate code, 1939 PA 288, MCL 712A.18.

(2) An individual arrested under this section shall be brought before the family division of 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 in 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 family division of circuit court has jurisdiction to conduct contempt proceedings based upon a violation of a personal protection order issued pursuant to section 2(h) of chapter XIIA of 1939 PA 288, MCL 712A.2, by the family division of circuit court in any county of this state. The family division of circuit court that conducts the preliminary hearing shall notify the family division of circuit court that issued the personal protection order that the issuing court may request that the respondent be returned to that county for violating the personal protection order. If the family division of circuit court that issued the personal protection order requests that the respondent be returned to that county to stand trial, the requesting county shall bear the cost of transporting the defendant to that county.

(6) 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.

(7) 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, 1974 PA 163, MCL 28.211 to 28.216.

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 parenting time order issued by a court of competent jurisdiction.
- (e) An order restraining or enjoining the abuser from engaging in stalking behavior.
- (f) 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 education or engaging in conduct that impairs your employment relationship or your employment or educational 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 it was used.
 - (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.

Enacting section 1. This amendatory act takes effect March 1, 1999.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 89th Legislature are enacted into law:

- (a) Senate Bill No. 866.
- (b) Senate Bill No. 874.
- (c) House Bill No. 5564.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.