

**DOMESTIC VIOLENCE;
WARRANTLESS ARREST**

House Bill 4709

Sponsor: Rep. Marc Shulman

Committee: Criminal Law and Corrections

Complete to 10-1-99

A SUMMARY OF HOUSE BILL 4709 AS INTRODUCED 5-19-99

The bill would amend the Code of Criminal Procedure to expand the provisions under which a police officer may make a warrantless arrest.

1. Currently, in order to make a warrantless arrest on an outstanding warrant, the officer making the arrest must have received positive information by telephone, telegraph, teletype, radio, in writing, or by some other authoritative means that another officer holds a warrant for the individual's arrest. The bill would allow an arrest on an outstanding warrant where the officer was informed of the warrant by electronically received communications. In addition, the bill would provide that a warrantless arrest could be made on a warrant held by a court (e.g., a bench warrant) under the same circumstances.
2. Warrantless arrests made for spousal or domestic assault, violation of a personal protection order (PPO), or violation of a conditional release would be allowed where the officer making the arrest received positive information that another peace officer had reasonable cause to believe that the violation of law or of the PPO occurred or is occurring.
3. The bill would clarify that an officer could make a warrantless arrest if he or she had reasonable cause to believe that a the person was "violating or [had] violated" a personal protection order, rather than was "in violation of" the order.
4. Current law requires a peace officer to provide a notice specified in the statute to a victim of a domestic violence incident, including information about obtaining a personal protection order. The bill would add to the required notice a statement informing the victim that he or she has the right to have his or her abuser prohibited from having access to information in records that concern a minor child of the abuser and victim that would inform the abuser of the victim's or the child's address or telephone number, or the victim's employment address. The notice would also have to include notification of the victim's right to go to court and file a motion for an order to show cause and a hearing if the abuser violated or was violating a personal protection order and had not been arrested.
5. A defendant who was arrested for violating a PPO must be given a hearing before the family division of the circuit court within 24 hours after his or her arrest. If the circuit court judge is not available within 24 hours from the arrest, the district court is required to set a bond and order the defendant to appear before the family division of the circuit court for a hearing. The bill would

provide that if the district court would not be open within 24 hours after the arrest, a judge or district court magistrate would be required to set bond and order the defendant to appear before the circuit court for a hearing on the charge. However, the court could not rescind a PPO, dismiss a contempt proceeding based on a PPO, or impose any other sanction due to a failure to comply with these time limits.

6. The bill would remove a provision requiring a PPO to be entered into the law enforcement information network (LEIN).
7. If a criminal contempt proceeding for a violation of a PPO was initiated as a result of a show cause order or other proceeding (rather than by an arrest), the court would be required to notify the prosecuting attorney of the contempt proceeding, and to notify the petitioner of the PPO and his or her attorney and direct the petitioner to appear at the hearing and provide evidence. The bill would also specify that the prosecuting attorney was responsible for prosecuting cases for PPO violations initiated by show cause orders.
8. The bill would also replace the term “domestic disputes or incidents” with the term "domestic violence incident", defined as an incident reported to a law enforcement agency that involved allegations of either a violation of a domestic violence PPO or a crime committed by an individual against his or her spouse, former spouse, an individual with whom he or she has had a child in common, or an individual who resides or has resided in the same household.

Analyst: D. Martens

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.