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SFA**BILL ANALYSIS**

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House Bill 4709 (as reported without amendment)
Sponsor: Representative Marc Shulman
House Committee: Criminal Law and Corrections
Senate Committee: Judiciary

CONTENT

The bill would amend the Code of Criminal Procedure expand the conditions under which peace officers may make warrantless arrests. Currently, an officer may arrest a person, without a warrant, when the officer has reasonable cause to believe that a personal protection order (PPO) has been issued; the individual named in it is in violation of the order; and the PPO states that a violation of its terms subjects the person to immediate arrest and penalty. An officer also make a warrantless arrest for assault, if the officer has reasonable cause to believe that the violation occurred or is occurring and that the person resides or has resided in the same household as the victim or is the victim's spouse or former spouse. Further, an officer may make a warrantless arrest of a defendant whom the officer has reasonable cause to believe is violating or has violated a condition of release imposed by a court. The bill also would allow an arrest under these circumstances if an officer received positive information that another peace officer had reasonable cause to believe that the applicable conditions existed.

Currently, a person arrested for violating a PPO must be brought before the family court within 24 hours after arrest to answer a charge of contempt for violating the PPO. The person must be brought before the district court if a circuit judge is not available. Under the bill, if the district court would not be open within 24 hours after the arrest, a judge or district court magistrate would have to set bond and order the defendant to appear before the circuit court.

Under the bill, if a criminal contempt proceeding for violating a PPO were initiated as a result of a show cause order or other process, the court would have to notify the party who procured the PPO and his or her attorney and direct the party to appear at the hearing and give evidence on the contempt charge, and notify the prosecuting attorney of the proceeding. The prosecuting attorney must prosecute a criminal contempt proceeding initiated by the court for a PPO violation, unless the party who procured the PPO retains his or her own attorney for that proceeding. The bill would extend this requirement to a criminal contempt proceeding for a PPO violation initiated by a show cause hearing. A prosecutor would not have to prosecute a criminal contempt proceeding if he or she determined that the PPO was not violated or that it would not be in the interest of justice to prosecute the criminal contempt violation.

The bill would prohibit a court from rescinding a PPO, dismissing a contempt proceeding based on a PPO, or imposing any other sanction for a failure to comply with a time limit prescribed in the Code's provisions for arrest and prosecution for a violation of a PPO.

MCL 764.15 et al.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have an indeterminate impact on the State and local units of government. In 1998, there were 47,808 new filings for personal protection orders.

Date Completed: 12-3-99

Fiscal Analyst: B. Bowerman

[floor/hb4709](#)

Analysis available @ <http://www.michiganlegislature.org>

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.