

**SUBSTITUTE FOR
SENATE BILL NO. 1047**

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending sections 1, 1a, and 9e of chapter IV (MCL 764.1,
764.1a, and 764.9e), section 1 of chapter IV as amended by 2014 PA
389 and section 1a of chapter IV as amended by 2012 PA 177, and by
adding section 10d to chapter II, sections 3 and 6f to chapter IV,
and section 6e to chapter V.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER II

**Sec. 10d. (1) Except in cases in which the person is alleged
to have committed an assaultive crime or an offense involving
domestic violence, a person who is wanted on a bench warrant or a
warrant of arrest who voluntarily presents himself or herself to**



1 the court that issued the warrant within 1 year of the warrant
2 issuance must be processed by the court according to this section.

3 (2) If a judicial officer is available to arraign the person
4 on the warrant within 2 hours of the person's appearance, the court
5 must arraign the person and set his or her case for the next stage
6 of criminal proceedings. It must be presumed that the person is not
7 a flight risk when the court sets bond or other conditions of
8 release at an arraignment under this subsection.

9 (3) If a judicial officer is not available to arraign the
10 person on the warrant within 2 hours of the person's appearance,
11 the court shall recall the warrant and schedule the case for future
12 arraignment.

13 (4) A court may deny a person the benefit of the procedure
14 provided for in this section if the person has already benefitted
15 from the procedure on any pending criminal charges.

16 (5) As used in this section:

17 (a) "Assaultive crime" includes any of the following:

18 (i) A violation described in section 9a of chapter X.

19 (ii) A violation of chapter XI of the Michigan penal code, 1931
20 PA 328, MCL 750.81 to 750.90h, not otherwise included in
21 subparagraph (i) .

22 (iii) A violation of section 110a, 136b, 234a, 234b, 234c, 349b,
23 or 411h of the Michigan penal code, 1931 PA 328, MCL 750.110a,
24 750.136b, 750.234a, 750.234b, 750.234c, 750.349b, and 750.411h, or
25 any other violent felony.

26 (iv) A violation of a law of another state or of a political
27 subdivision of this state or of another state that substantially
28 corresponds to a violation described in subparagraph (i) , (ii) , or
29 (iii) .



(b) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(c) "Violent felony" means that term as defined in section 36 of the corrections code of 1953, 1953 PA 232, MCL 791.236.

CHAPTER IV

Sec. 1. (1) For the apprehension **or summons** of persons charged with a felony, misdemeanor, or ordinance violation, a judge or district court magistrate may issue processes to implement this chapter, except that a judge or district court magistrate shall not issue a warrant **or summons** for other than a minor offense unless an authorization in writing allowing the issuance of the warrant **or summons** is filed with the judge or district court magistrate and, except as otherwise provided in this act, the authorization is signed by the prosecuting attorney, or unless security for costs is filed with the judge or district court magistrate.

(2) A judge or district court magistrate shall not issue a warrant for a minor offense unless an authorization in writing allowing the issuance of the warrant is filed with the judge or district court magistrate and signed by the prosecuting attorney, or unless security for costs is filed with the judge or district court magistrate, except if the warrant is requested by any of the following officials for the following offenses:

(a) Agents of the state transportation department, a county road commission, or the public service commission for violations of the motor carrier act, 1933 PA 254, MCL 475.1 to ~~479.43~~, **479.42**, or the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.25, the enforcement of which has been delegated to them.

(b) The director of the department of natural resources, or a special assistant or conservation officer appointed by the director



1 of the department of natural resources and declared by statute to
2 be a peace officer, for a violation of a law that provides for the
3 protection of wild game or fish.

4 (3) A complaint for an arrest warrant **or summons** may be made
5 and an arrest warrant **or summons** may be issued by any electronic or
6 electromagnetic means of communication from any location in this
7 state, if all of the following occur:

8 (a) The prosecuting attorney authorizes the issuance of the
9 warrant **or summons**. Authorization may consist of an electronically
10 or electromagnetically transmitted facsimile of the signed
11 authorization.

12 (b) The judge or district court magistrate orally administers
13 the oath or affirmation, in person or by any electronic or
14 electromagnetic means of communication, to an applicant for an
15 arrest warrant **or summons** who submits a complaint under this
16 subsection.

17 (c) The applicant signs the complaint. Proof that the
18 applicant has signed the complaint may consist of an electronically
19 or electromagnetically transmitted facsimile of the signed
20 complaint.

21 (4) The person or department receiving an electronically or
22 electromagnetically issued arrest warrant ~~shall~~**or summons must**
23 receive proof that the issuing judge or district court magistrate
24 has signed the warrant **or summons** before the warrant ~~is~~**or summons**
25 **is** executed. Proof that the issuing judge or district court
26 magistrate has signed the warrant **or summons** may consist of an
27 electronically or electromagnetically transmitted facsimile of the
28 signed warrant **or summons**.

29 (5) A judge or district court magistrate may sign an



1 electronically or electromagnetically issued arrest warrant **or**
2 **summons** when he or she is at any location in this state.

3 Sec. 1a. (1) A magistrate shall issue a warrant **or summons**
4 upon presentation of a proper complaint alleging the commission of
5 an offense and a finding of reasonable cause to believe that the
6 individual accused in the complaint committed that offense. The
7 complaint ~~shall~~**must** be sworn to before a magistrate or clerk.

8 **(2) Except in cases in which any of the following**
9 **circumstances apply, the magistrate or clerk must issue a summons**
10 **rather than a warrant:**

11 **(a) The complaint is for an assaultive crime or an offense**
12 **involving domestic violence.**

13 **(b) The clerk or magistrate has reason to believe from the**
14 **presentation of the complaint that the person against whom the**
15 **complaint was made will not appear upon a summons.**

16 **(c) The issuance of summons poses a risk to public safety.**

17 **(d) The prosecutor has requested a warrant.**

18 **(3) A summons must be in the same form as a warrant except**
19 **that it must summon the defendant to appear before a court at a**
20 **stated date and time. The summons must be served upon a defendant**
21 **by delivering a copy to him or her personally, by leaving it at his**
22 **or her dwelling house or usual place of abode with some person of**
23 **suitable age and discretion residing at that place, or by mailing**
24 **it to the defendant's last known address. If a defendant fails to**
25 **appear in response to the summons, a warrant may be issued.**

26 **(4) ~~(2)~~—The finding of reasonable cause by the magistrate may**
27 **be based upon 1 or more of the following:**

28 **(a) Factual allegations of the complainant contained in the**
29 **complaint.**



1 (b) The complainant's sworn testimony.

2 (c) The complainant's affidavit.

3 (d) Any supplemental sworn testimony or affidavits of other
4 individuals presented by the complainant or required by the
5 magistrate.

6 (5) ~~(3)~~—The magistrate may require sworn testimony of the
7 complainant or other individuals. Supplemental affidavits may be
8 sworn to before an individual authorized by law to administer
9 oaths. The factual allegations contained in the complaint,
10 testimony, or affidavits may be based upon personal knowledge,
11 information and belief, or both.

12 (6) ~~(4)~~—The magistrate shall not refuse to accept a complaint
13 alleging a violation of section 81 or 81a of the Michigan penal
14 code, 1931 PA 328, MCL 750.81 and 750.81a, or a violation of a
15 local ordinance substantially corresponding to section 81 of the
16 Michigan penal code, 1931 PA 328, MCL 750.81, by the spouse of the
17 victim, a former spouse of the victim, an individual with whom the
18 victim has had a child in common, an individual with whom the
19 victim has or has had a dating relationship, or an individual
20 residing or having resided in the same household as the victim on
21 grounds that the complaint is signed upon information and belief by
22 an individual other than the victim.

23 (7) ~~(5)~~—The magistrate shall not refuse to accept a complaint
24 alleging that a crime was committed in which the victim is a
25 vulnerable adult on the grounds that the complaint is signed upon
26 information and belief by an individual other than the victim.

27 (8) ~~(6)~~—A warrant **or summons** may be issued under this section
28 only upon compliance with the requirements of section 1 of this
29 chapter.



(9) ~~(7)~~—As used in this section:

(a) "Assaultive crime" includes any of the following:

(i) A violation described in section 9a of chapter X.

(ii) A violation of chapter XI of the Michigan penal code, 1931 PA 328, MCL 750.81 to 750.90h, not otherwise included in subparagraph (i) .

(iii) A violation of section 110a, 136b, 234a, 234b, 234c, 349b, or 411h of the Michigan penal code, 1931 PA 328, MCL 750.110a, 750.136b, 750.234a, 750.234b, 750.234c, 750.349b, and 750.411h, or any other violent felony.

(iv) A violation of a law of another state or of a political subdivision of this state or of another state that substantially corresponds to a violation described in subparagraph (i) , (ii) , or (iii) .

(b) ~~(a)~~—"Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

(c) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(d) "Violent felony" means that term as defined in section 36 of the corrections code of 1953, 1953 PA 232, MCL 791.236.

(e) ~~(b)~~—"Vulnerable adult" means that term as defined in section 145m of the Michigan penal code, 1931 PA 328, MCL 750.145m.

Sec. 3. (1) Notwithstanding any provision of law to the contrary and except in cases where the complaint is for an assaultive crime or an offense involving domestic violence, in the event that a defendant fails to appear for a court hearing and it



1 is the defendant's first failure to appear in the case, there is a
2 rebuttable presumption that the court must wait 48 hours before
3 issuing a bench warrant to allow the defendant to voluntarily
4 appear. If the defendant does not appear within 48 hours, the court
5 shall issue a bench warrant unless the court finds good cause to
6 issue an order to show cause why the defendant failed to appear
7 rather than issuing a bench warrant.

8 (2) When a court delays the issuance of a warrant, the court
9 shall not revoke the release order or declare bail money deposited
10 or the surety bond, if any, forfeited. Upon the issuance of the
11 arrest warrant, the court may then enter an order revoking the
12 release order and declaring the bail money deposited, personal
13 recognizance bond, surety bond, or 10% bond, if any, forfeited.

14 (3) The court may overcome the presumption under subsection
15 (1) and issue an immediate bench warrant for the defendant's
16 failure to appear if the court has a specific articulable reason to
17 suspect that any of the following apply:

18 (a) The defendant has committed a new crime.

19 (b) A person or property will be endangered if a bench warrant
20 is not issued.

21 (c) Prosecution witnesses have been summoned and are present
22 for the proceeding.

23 (d) The proceeding is to impose a sentence for the crime.

24 (e) There are other compelling circumstances that require the
25 immediate issuance of a bench warrant.

26 (4) If the court departs from the presumption under subsection
27 (1) and issues an immediate bench warrant, the court must state on
28 the record its reasons for doing so.

29 (5) As used in this section:



(a) "Assaultive crime" includes any of the following:

(i) A violation described in section 9a of chapter X.

(ii) A violation of chapter XI of the Michigan penal code, 1931 PA 328, MCL 750.81 to 750.90h, not otherwise included in subparagraph (i).

(iii) A violation of section 110a, 136b, 234a, 234b, 234c, 349b, or 411h of the Michigan penal code, 1931 PA 328, MCL 750.110a, 750.136b, 750.234a, 750.234b, 750.234c, 750.349b, and 750.411h, or any other violent felony.

(iv) A violation of a law of another state or of a political subdivision of this state or of another state that substantially corresponds to a violation described in subparagraph (i), (ii), or (iii).

(b) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(c) "Violent felony" means that term as defined in section 36 of the corrections code of 1953, 1953 PA 232, MCL 791.236.

Sec. 6f. (1) Each district court and county jail shall establish a communication protocol to enable the swift processing of individuals detained on a warrant of arrest that originated in another county.

(2) Each district court shall establish a hearing protocol for individuals detained on a warrant of arrest that originated in another county. This protocol must include the use of 2-way interactive video technology, when appropriate.

Sec. 9e. (1) If after the service of an appearance ticket and the filing of a complaint for the offense designated ~~therein~~ **on the appearance ticket** the defendant does not appear in the designated local criminal court ~~at~~ **within** the time the appearance ticket is



1 returnable, the court may issue a summons or a warrant ~~of arrest~~
2 ~~based upon the complaint filed as provided in this section.~~

3 (2) Notwithstanding any provision of law to the contrary, in
4 the event that a defendant fails to appear for a court hearing
5 within the time the appearance ticket is returnable there is a
6 rebuttable presumption that the court must issue an order to show
7 cause why the defendant failed to appear instead of issuing a
8 warrant.

9 (3) The court may overcome the presumption and issue a warrant
10 if it has a specific articulable reason to suspect that any of the
11 following apply:

12 (a) The defendant committed a new crime.

13 (b) The defendant's failure to appear is the result of a
14 willful intent to avoid or delay the adjudication of the case.

15 (c) Another person or property will be endangered if a warrant
16 is not issued.

17 (4) If the court overcomes the presumption under subsection
18 (2) and issues a warrant, the court must state on the record its
19 reasons for doing so.

20 CHAPTER V

21 Sec. 6e. (1) Except in cases in which the person is alleged to
22 have committed an assaultive crime or an offense involving domestic
23 violence, a person who is detained on warrant of arrest in a county
24 other than the county from which the warrant originated must be
25 released from custody if the county from which the warrant
26 originated does not make arrangements within 48 hours from the time
27 the person was detained to pick the person up and does not in fact
28 pick the person up within 72 hours after the time he or she was
29 detained. If a person is released from custody under this section,



1 the releasing facility must contact the originating court and
2 obtain a court date for the defendant to appear.

3 (2) As used in this section:

4 (a) "Assaultive crime" includes any of the following:

5 (i) A violation described in section 9a of chapter X.

6 (ii) A violation of chapter XI of the Michigan penal code, 1931
7 PA 328, MCL 750.81 to 750.90h, not otherwise included in
8 subparagraph (i).

9 (iii) A violation of section 110a, 136b, 234a, 234b, 234c, 349b,
10 or 411h of the Michigan penal code, 1931 PA 328, MCL 750.110a,
11 750.136b, 750.234a, 750.234b, 750.234c, 750.349b, and 750.411h, or
12 any other violent felony.

13 (iv) A violation of a law of another state or of a political
14 subdivision of this state or of another state that substantially
15 corresponds to a violation described in subparagraph (i), (ii), or
16 (iii).

17 (b) "Domestic violence" means that term as defined in section
18 1 of 1978 PA 389, MCL 400.1501.

19 (c) "Violent felony" means that term as defined in section 36
20 of the corrections code of 1953, 1953 PA 232, MCL 791.236.

