

# SENATE BILL NO. 1047

July 23, 2020, Introduced by Senators IRWIN, SANTANA, CHANG, WOJNO, BULLOCK, BAYER, ALEXANDER, MOSS, MCMORROW, GEISS, MCCANN, BRINKS, POLEHANKI, HERTEL and DALEY and referred to the Committee on Judiciary and Public Safety.

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

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER II  
2 Sec. 10d. (1) Except in cases in which the person is alleged  
3 to have committed an assaultive crime, an offense involving

1 domestic violence, or a violation of section 411h or 411i of the  
2 Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i, a  
3 person who is wanted on a bench warrant or a warrant of arrest may  
4 appear in court, physically or electronically if the court has the  
5 capacity to conduct remote hearings, to answer for the warrant and  
6 for the scheduling of his or her next court appearance without the  
7 warrant being executed if he or she does so within 1 year of the  
8 warrant being issued. Upon scheduling the next court appearance,  
9 the court must cancel the existing warrant.

10 (2) As used in this section:

11 (a) "Assaultive crime" means that term as defined in section  
12 9a of chapter X.

13 (b) "Domestic violence" means that term as defined in section  
14 1 of 1978 PA 389, MCL 400.1501.

15 CHAPTER IV

16 Sec. 3. (1) Notwithstanding any provision of law to the  
17 contrary and except in cases where the complaint is for an  
18 assaultive crime, an offense involving domestic violence, or a  
19 violation of section 411h or 411i of the Michigan penal code, 1931  
20 PA 328, MCL 750.411h and 750.411i, upon presentation of a complaint  
21 to a judicial officer, a prosecuting attorney must request a  
22 summons instead of an arrest warrant, unless the prosecuting  
23 attorney has reason to believe a summons would not be sufficient to  
24 ensure court appearance or protect the community.

25 (2) As used in this section:

26 (a) "Assaultive crime" means that term as defined in section  
27 9a of chapter X.

28 (b) "Domestic violence" means that term as defined in section  
29 1 of 1978 PA 389, MCL 400.1501.

1       Sec. 3a. (1) Notwithstanding any provision of law to the  
2 contrary and except in cases where the complaint is for an  
3 assaultive crime, an offense involving domestic violence, or a  
4 violation of section 411h or 411i of the Michigan penal code, 1931  
5 PA 328, MCL 750.411h and 750.411i, in the event that a defendant  
6 fails to appear for a court hearing and it is his or her first  
7 failure to appear in the case, there is a rebuttable presumption  
8 that the court must issue an order to show cause why the defendant  
9 failed to appear rather than a bench warrant or an arrest warrant.

10       (2) The court may overcome the presumption and issue a warrant  
11 if it has a specific articulable reason to suspect that 1 of the  
12 following applies:

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

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

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

18       (d) The failure to appear occurred on a date set for trial.

19       (3) If the court departs from the presumption and issues a  
20 warrant, it must state on the record its reason for doing so.

21       (4) If the court intends to issue a warrant solely because it  
22 has reason to believe that the defendant's failure to appear is the  
23 result of a willful intent to avoid or delay the adjudication of  
24 the case, under subsection (2)(b), the court may provide for a 48-  
25 hour period allowing the defendant to voluntarily appear before  
26 issuing the bench warrant.

27       (5) As used in this section:

28       (a) "Assaultive crime" means that term as defined in section  
29 9a of chapter X.

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

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 the time the appearance ticket is returnable, the court may issue a summons or a warrant of arrest ~~based upon the complaint filed~~ **as provided in this section.**

(2) Notwithstanding any provision of law to the contrary, in the event that a defendant fails to appear for a court hearing at the time the appearance ticket is returnable and it is the defendant's first failure to appear in the case, there is a rebuttable presumption that the court must issue an order to show cause why the defendant failed to appear rather than a bench warrant or an arrest warrant.

(3) The court may depart from the presumption and issue a warrant if it has a specific articulable reason to suspect that 1 of the following applies:

(a) The defendant committed another crime.

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

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

3 (d) The failure to appear occurred on a date set for trial.

4 (4) If the court departs from the presumption under subsection  
5 (2) and issues a warrant, the court must state on the record its  
6 reason for doing so.

7 (5) If the court has reason to believe that the defendant's  
8 failure to appear is the result of a willful intent to avoid or  
9 delay adjudication of the case, but not that a person or property  
10 will be endangered if a warrant is not issued, and the failure to  
11 appear has not occurred on a date set for trial, rather than  
12 immediately issuing a warrant, the court may provide for a 48-hour  
13 period allowing the defendant to voluntarily appear, either for the  
14 hearing or to reschedule the hearing, before the warrant is issued.

15 (6) As used in this section:

16 (a) "Assaultive crime" means that term as defined in section  
17 9a of chapter X.

18 (b) "Domestic violence" means that term as defined in section  
19 1 of 1978 PA 389, MCL 400.1501.

20 CHAPTER V

21 Sec. 6e. (1) Except in cases in which the person is alleged to  
22 have committed an assaultive crime, an offense involving domestic  
23 violence, or a violation of section 411h or 411i of the Michigan  
24 penal code, 1931 PA 328, MCL 750.411h and 750.411i, a person who is  
25 detained on warrant of arrest in a county other than the county  
26 from which the warrant originated must be released from custody if  
27 the county from which the warrant originated does not make  
28 arrangements within 48 hours from the time the person was detained  
29 to pick the person up and does not in fact pick the person up

1 within 72 hours after the time he or she was detained. If a person  
2 is released from custody under this section, the releasing facility  
3 must contact the originating court and obtain a court date for the  
4 defendant to appear.

5 (2) As used in this section:

6 (a) "Assaultive crime" means that term as defined in section  
7 9a of chapter X.

8 (b) "Domestic violence" means that term as defined in section  
9 1 of 1978 PA 389, MCL 400.1501.