

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)

Act 175 of 1927

CHAPTER XVI

MISCELLANEOUS PROVISIONS

776.1-776.5 Repealed. 1966, Act 189, Eff. Mar. 10, 1967.

Compiler's note: The repealed sections pertained to issuance and contents of search warrants and to custody and disposal of seized property.

776.6 Extradition; agent to demand certain persons from another state or government; appointment; payment of accounts.

Sec. 6. The governor of this state may in any case authorized by the constitution and laws of the United States, appoint agents to demand of the executive authority of any other state or territory, or from the executive authority of any foreign government, any fugitive from justice or any person charged with treason; and the accounts of the agents appointed for that purpose shall, unless otherwise directed by the governor, be audited by the state treasurer and paid out of the state treasury.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17496;—CL 1948, 776.6;—Am. 2002, Act 88, Imd. Eff. Mar. 26, 2002.

Former law: See section 6 of Ch. 170 of R.S. 1846, being CL 1857, § 6119; CL 1871, § 8004; How., § 9620; CL 1897, § 11991; CL 1915, § 15884; and Act 1 of 1853.

776.7 Extradition; demand for certain persons by another state; warrant to sheriff, examination, attorney general's report.

Sec. 7. Whenever a demand shall be made upon the governor of this state by the governor of any other state or territory in any case authorized by the constitution and laws of the United States for the delivery over of any person charged in such state or territory with treason, felony or any other crime and there shall be produced with such demand a copy of the indictment found or information filed, or affidavit or complaint made before a magistrate of the state or territory demanding, charging the person so demanded with having committed treason, felony, or other crime within such state or territory, duly certified as authentic by the governor or chief magistrate of the state or territory from whence the person so charged fled, with due proof of the fleeing, it shall be the duty of the governor of this state to issue an order or warrant to the sheriff of the county in which such person so charged may be found, commanding him to forthwith arrest such alleged fugitive and to deliver him to the duly authorized agent appointed by the executive authority making such demand to receive him and remove him to the proper place for prosecution. But the sheriff, while the alleged fugitive is in his custody and before delivering him up to the agent of the demanding state, shall afford him every facility to enable him to have a judicial examination if he desires it, by habeas corpus or otherwise, to ascertain whether the demand and arrest have been made conformably to the requirements of law so that such person if he ought not to be delivered may be duly discharged, and the attorney general when required by the governor shall forthwith investigate the grounds of demand and report to the governor all material facts, which may come to his knowledge, as to the situation and circumstances of the person so demanded, and especially whether he is held in custody or is under recognizance to answer for any offense against the laws of this state, or of the United States or by virtue of any civil process, and also whether such demand was made conformably to law, so that such person ought not to be delivered up.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17497;—CL 1948, 776.7.

Former law: See section 7 of Ch. 170 of R.S. 1846, being CL 1857, § 6120; CL 1871, § 8005; How., § 9621; CL 1897, § 11992; CL 1915, § 15885; and Act 235 of 1879.

776.8 Extradition; warrant to agent; issuance, contents.

Sec. 8. If the governor shall be satisfied that the demand is conformable to law, and ought to be complied with, he shall issue his warrant, under the seal of the state, authorizing the agents who make such demand, either forthwith or at such time as shall be designated in the warrant, to take and transport such person to the line of this state, at the expense of such agents, and shall also by such warrant require the civil officers within this state to afford all needful assistance in the execution thereof.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17498;—CL 1948, 776.8.

Former law: See section 8 of Ch. 170 of R.S. 1846, being CL 1857, § 6124; CL 1871, § 8006; How., § 9622; CL 1897, § 11993; and CL 1915, § 15886.

776.9 Extradition; persons liable to; complaint, warrant.

Sec. 9. Whenever any person shall be found within this state charged with any offense committed in any

other state or territory and liable by the constitution and laws of the United States to be delivered over upon the demand of the governor of such other state or territory, any court or magistrate authorized to issue warrants in criminal cases, may upon complaint on oath setting forth the offense, and such other matters as are necessary to bring the case within the provisions of law, issue a warrant to bring the person so charged before the same or some other court or magistrate, within this state, to answer to such complaint as in other cases.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17499;—CL 1948, 776.9.

Former law: See section 9 of Ch. 170 of R.S. 1846, being CL 1857, § 6125; CL 1871, § 8007; How., § 9623; CL 1897, § 11994; and CL 1915, § 15887.

776.10 Extradition; examination, recognizance.

Sec. 10. If, upon the examination of the person charged, it shall appear to the court or magistrate that there is reasonable cause to believe that the complaint is true, and that such person may be lawfully demanded of the governor, he shall if not charged with a capital crime, or with murder in the first degree, be required to recognize, with sufficient sureties, in a reasonable sum, to appear before such court or magistrate at a future day, allowing a reasonable time to obtain the warrant of the governor, and to abide the order of such court or magistrate in the premises.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17500;—CL 1948, 776.10.

Former law: See section 10 of Ch. 170 of R.S. 1846, being CL 1857, § 6126; CL 1871, § 8008; How., § 9624; CL 1897, § 11995; and CL 1915, § 15888.

776.11 Extradition; failure or inability to recognize, commitment, default.

Sec. 11. If such person shall not recognize, or if he shall be charged with a capital crime, or with the crime of murder in the first degree, he shall be committed to prison and there detained until such day in like manner as if the offense charged had been committed within this state; and if the person so recognizing shall fail to appear according to the condition of his recognizance, he shall be defaulted and the same proceedings shall be had as in the case of other recognizances entered into before such court or magistrate.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17501;—CL 1948, 776.11.

Former law: See section 11 of Ch. 170 of R.S. 1846, being CL 1857, § 6127; CL 1871, § 8009; How., § 9625; CL 1897, § 11996; and CL 1915, § 15889.

776.12 Extradition; discharge, delivery to authorized person, new recognizance or commitment.

Sec. 12. If the person so recognized or committed, shall appear before the court or magistrate upon the day ordered, he shall be discharged, unless he shall be demanded by some person authorized by the warrant of the governor to receive him, or unless the court or magistrate shall see cause to commit him, or to require him to recognize anew for his appearance at some other day; and if, when ordered, he shall not so recognize, he shall be committed and detained as before: Provided, That whether the person so charged shall be recognized, committed or discharged, any person authorized by the warrant of the governor may, at all times, take him into custody and the same shall be a discharge of the recognizance, if any, and shall not be deemed an escape.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17502;—CL 1948, 776.12.

Former law: See section 12 of Ch. 170 of R.S. 1846, being CL 1857, § 6128; CL 1871, § 8010; How., § 9626; CL 1897, § 11997; and CL 1915, § 15890.

776.13 Extradition; complainant to support prisoner and cost, liability; failure to pay, effect.

Sec. 13. The complainant in any such case shall be answerable for all the actual costs and charges and for the support in prison of any person so committed, to be paid weekly or otherwise as may be ordered by the court or magistrate; and if the charge for his support in prison shall not be so paid, the jailer may on the failure of the complainant discharge such person from his imprisonment.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17503;—CL 1948, 776.13.

Former law: See section 13 of Ch. 170 of R.S. 1846, being CL 1857, § 6129; CL 1871, § 8011; How., § 9627; CL 1897, § 11998; and CL 1915, § 15891.

776.14 Prosecuting attorney; right to defend person charged with crime in county.

Sec. 14. It shall be unlawful for any prosecuting attorney of this state to defend or assist in the defense of any person charged with crime within the county of which he is prosecuting attorney.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17504;—CL 1948, 776.14.

Former law: See section 1 of Act 23 of 1897, being CL 1897, § 2565; and CL 1915, § 2414.

776.15 Prosecuting attorney; right to defend accused in case transferred from another county; county liable for assistance in prosecution.

Sec. 15. When any criminal cases commenced by the people of the state of Michigan within any county of this state shall be transferred to another county for trial for any reason whatsoever, the prosecuting attorney of the county to which said cause is transferred shall be prohibited from defending or assisting in the defense of the cause so transferred; and in case the prosecuting attorney of the county to which said cause is transferred shall be employed to assist in the prosecution of said cause, the county from which said cause was transferred shall pay such charges to such prosecuting attorney as the court may allow.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17505;—CL 1948, 776.15.

Former law: See section 2 of Act 23 of 1897, being CL 1897, § 2566; and CL 1915, § 2415.

776.18 Assistant; right of prosecutor to procure; compensation; prohibition.

Sec. 18. The prosecuting attorney may procure the assistance in the trial of any person charged with a felony as he or she considers necessary. The prosecuting attorney may appoint an assistant to perform his or her duties during a period when the prosecuting attorney is unable to perform those duties. An assistant appointed under this section shall be paid reasonable compensation as determined by the board of supervisors or the board of county auditors, as applicable, for those services. No person shall be employed or appointed as assistant prosecutor who is interested as an attorney or otherwise in a case involving the same facts or circumstances involved in a case to be conducted or tried by the assistant prosecutor or who has received any compensation from any person with an interest in those cases.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17508;—CL 1948, 776.18;—Am. 2012, Act 72, Imd. Eff. Apr. 6, 2012.

Former law: See Act 195 of 1879, being How., § 560; CL 1897, § 2569; CL 1915, § 2418; and Act 258 of 1915.

776.19 Reward for criminal or escaped prisoner; authority to offer and pay.

Sec. 19. (1) The board of commissioners of a county is authorized to offer and pay out of the general fund of the county a reward for the arrest and conviction, or for information leading to the arrest and conviction, of any person or persons having committed a crime within the county or having escaped from any penal institution within the county.

(2) The powers granted in this section may be exercised by the finance committee of the board of commissioners of a county when the board of commissioners of the county is not in session upon the request of a reward by the sheriff or the prosecuting attorney of the county.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17509;—CL 1948, 776.19;—Am. 2022, Act 114, Eff. Sept. 22, 2022.

Former law: See section 2 of Act 156 of 1851, being CL 1857, § 336; CL 1871, § 468; How., § 474; and Act 262 of 1925.

776.20 Firearms violations; burden of establishing exception.

Sec. 20. In any prosecution for the violation of any acts of the state relative to use, licensing and possession of pistols or firearms, the burden of establishing any exception, excuse, proviso or exemption contained in any such act shall be upon the defendant but this does not shift the burden of proof for the violation.

History: Add. 1968, Act 299, Eff. Nov. 15, 1968.

776.21 "Law enforcement officer" and "victim" defined; submitting victim to polygraph examination or lie detector test; giving polygraph examination or lie detector test to defendant upon request.

Sec. 21. (1) As used in this section:

(a) "Law enforcement officer" means a police officer of a county, city, village, township, or this state; a college or university public safety officer; a prosecuting attorney, assistant prosecuting attorney, or an investigator for the office of prosecuting attorney; or any other person whose duty is to enforce the laws of this state.

(b) "Victim" means a person who is a victim of a crime under sections 520b to 520e and 520g of Act No. 328 of the Public Acts of 1931, being sections 750.520b to 750.520e and 750.520g of the Michigan Compiled Laws.

(2) A law enforcement officer shall not request or order a victim to submit to a polygraph examination or lie detector test. A law enforcement officer shall not inform a victim of the option of taking a polygraph examination or lie detector test unless the victim inquires concerning such a test or as provided by subsection (3).

(3) A law enforcement officer shall inform the victim when the person accused of a crime specified in subsection (1)(b) has voluntarily submitted to a polygraphic examination or lie detector test and the test

indicates that the person may not have committed the crime.

(4) Subsections (2) and (3) apply only to a polygraph examination or lie detector test which is requested, ordered, or given in regard to a person being a victim.

(5) A defendant who allegedly has committed a crime under sections 520b to 520e and 520g of Act No. 328 of the Public Acts of 1931, shall be given a polygraph examination or lie detector test if the defendant requests it.

History: Add. 1980, Act 454, Eff. Mar. 31, 1981.

776.21a Recidivism rates; collection and maintenance of data; manner.

Sec. 21a. Any data collected and maintained under this act regarding recidivism rates must be collected and maintained in a manner that separates the data regarding technical probation violations and technical parole violations from data on new felony and misdemeanor convictions.

History: Add. 2017, Act 2, Eff. June 29, 2017.

776.21b Authority to provide certain information to domestic or sexual violence service provider agency.

Sec. 21b. (1) A police officer or a prosecuting attorney may provide a domestic or sexual violence service provider agency with the name, demographics, and other pertinent information of, and information to facilitate contact with, a victim of domestic or sexual violence for the purpose of offering supportive services to the victim. If a police officer or prosecuting attorney provides information to a domestic or sexual violence service provider agency under this section, that police officer or prosecuting attorney shall notify the victim of domestic or sexual violence that the information was provided.

(2) This section does not authorize the disclosure of a confidential address.

(3) The providing of information by a police officer or prosecutor under subsection (1) is in addition to any other requirement under law to provide notice or information to a victim of domestic or sexual violence, including, but not limited to, section 15c of chapter IV, section 3 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.753, and section 3 of the sexual assault victim's access to justice act, 2014 PA 319, MCL 752.953.

(4) As used in this section:

(a) "Confidential address" means that term as defined in section 3 of the address confidentiality program act, 2020 PA 301, MCL 780.853.

(b) "Domestic or sexual violence service provider agency" means an agency that receives funding from the department of health and human services division of victim services to provide confidential supportive services to victims of domestic or sexual violence, receives a federal grant through the United States Department of Justice to provide confidential supportive services to victims of domestic or sexual violence, or is associated with an Indian tribe and is providing confidential supportive services to victims of domestic or sexual violence.

History: Add. 2023, Act 180, Eff. Feb. 13, 2024.

776.22 Domestic violence calls; development, implementation, and evaluation of written policies and standards by police agencies; definitions.

Sec. 22. (1) Each police agency in this state shall, by January 1, 1995, develop, adopt, and implement written policies for police officers responding to domestic violence calls. The policies shall reflect that domestic violence is criminal conduct.

(2) Each police agency shall consult with the prosecuting attorney and with an area shelter for victims of domestic violence in the development, implementation, including training, and evaluation of the policies and standards.

(3) The policies shall address, but not be limited to addressing, all of the following:

(a) Procedures for conducting a criminal investigation with specific standards for misdemeanor and felony arrests.

(b) Procedures for making a criminal arrest. The procedures shall emphasize all of the following:

(i) In most circumstances, an officer should arrest and take an individual into custody if the officer has probable cause to believe the individual is committing or has committed domestic violence and his or her actions constitute a crime.

(ii) When the officer has probable cause to believe spouses, former spouses, individuals who have had a child in common, individuals who have or have had a dating relationship, or other individuals who reside together or formerly resided together are committing or have committed crimes against each other, the officer, when determining whether to make an arrest of 1 or both individuals, should consider the intent of this section

to protect victims of domestic violence, the degree of injury inflicted on the individuals involved, the extent to which the individuals have been put in fear of physical injury to themselves or other members of the household, and any history of domestic violence between the individuals, if that history can reasonably be ascertained by the officer. In addition, the officer should not arrest an individual if the officer has reasonable cause to believe the individual was acting in lawful self-defense or in lawful defense of another individual.

(iii) A police officer's decision as to whether to arrest an individual should not be based solely on the consent of the victim to any subsequent prosecution or on the relationship of the individuals involved in the incident.

(iv) A police officer's decision not to arrest an individual should not be based solely upon the absence of visible indications of injury or impairment.

(c) Procedures for denial of interim bond, as provided in 1961 PA 44, MCL 780.581 to 780.588.

(d) Procedures for verifying a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a.

(e) Procedures for making an arrest for a violation of a personal protection order.

(f) Procedures for enforcing a valid foreign protection order.

(g) Procedures for providing or arranging for emergency assistance to victims including, but not limited to, medical care, transportation to a shelter, or remaining at the scene of an alleged incident of domestic violence for a reasonable time until, in the reasonable judgment of the police officer, the likelihood of further imminent violence has been eliminated.

(h) Procedures for informing the victim of community services and legal options that are available under section 15c of chapter IV.

(i) Procedures for preparing a written report, whether or not an arrest is made.

(j) Training of peace officers, dispatchers, and supervisors.

(k) Discipline for noncompliance with the policy.

(l) Annual evaluations of the policy.

(4) The local policies developed, adopted, and implemented under this section shall be in writing and shall be available to the public upon request.

(5) As used in this section:

(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.

(b) "Foreign protection order" means that term as defined in section 2950h of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950h.

(c) "Valid foreign protection order" means a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i.

History: Add. 1994, Act 69, Imd. Eff. Apr. 11, 1994;—Am. 1994, Act 418, Eff. Apr. 1, 1995;—Am. 2001, Act 194, Eff. Apr. 1, 2002;—Am. 2005, Act 106, Imd. Eff. Sept. 14, 2005.