

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)
Act 175 of 1927

764.15f Violation of order issued by probate court or family division of circuit court; arrest without warrant; duties of police officer and court; authority of judge to arraign, take plea, or sentence; judge not available; entering order into or removing from law enforcement information network.

Sec. 15f. (1) A peace officer, without a warrant, may arrest and take into custody a person if the peace officer has reasonable cause to believe all of the following exist:

(a) The probate court before January 1, 1998 or the family division of circuit court on or after January 1, 1998 has issued an order under section 13a(4) of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.13a of the Michigan Compiled Laws, stating on its face the period of time for which the order is valid.

(b) A true copy of the order and proof of service has been filed with the law enforcement agency having jurisdiction of the area in which the person having custody of the child pursuant to section 13a(4) of chapter XIIA of Act No. 288 of the Public Acts of 1939 resides.

(c) The person named in the order has received notice of the order.

(d) The person named in the order is acting in violation of the order.

(e) The order states on its face that a violation of its terms subjects the person to criminal contempt of court and, if found guilty, the person shall be imprisoned for not more than 90 days and may be fined not more than \$500.00.

(2) If a peace officer arrests a person under this section, the peace officer shall do all of the following:

(a) Prepare a complaint of violation of the order substantially in the following format:

COMPLAINT OF VIOLATION OF CHILD PROTECTIVE ORDER

I _____ am a peace officer. I have determined by:

(name)

L.E.I.N. and verification with the police agency holding the order
Certified or true copy of order

Other (Describe)

That _____ family division of circuit court ordered

(county)

(name)

NOT TO ENTER THE FOLLOWING PREMISES:

I have reasonable cause to believe that on _____

at _____

(date)

(time)

the person subject to the order violated the order as follows:

(state violations)

(Signature of officer)

(Date)

(b) Provide 1 copy of the complaint to the person subject to the order and the original and 1 copy to the court that imposed the conditions. The law enforcement agency shall retain 1 copy of the complaint.

(3) A person arrested pursuant to this section shall be brought before the family division of circuit court having jurisdiction in the cause within 24 hours after arrest to answer to a charge of contempt for violation of the order, at which time the court shall do each of the following:

(a) Set a time certain for a hearing on the alleged violation of the order. The hearing shall be conducted within 72 hours after arrest, unless extended by the court on the motion of the arrested person.

(b) Set a reasonable bond pending a hearing of the alleged violation of the order.

(c) Notify the person having custody of the child under section 13a(4) of chapter XIIA of Act No. 288 of the Public Acts of 1939 and direct that person to appear at the hearing and give evidence on the charge of contempt.

(4) For purposes of this section, a judge of the family division of circuit court may arraign, take a plea, or sentence the person for criminal contempt in the same manner that the circuit court may arraign, take a plea, or sentence a person in other criminal cases.

(5) If a judge of the family division of circuit court is not present or available within 24 hours after arrest, a person arrested under this section shall be taken before the district court within 24 hours after arrest, at which time the district court shall order the defendant to appear before the family division of circuit court that entered or has jurisdiction over the order for a hearing on the charge. The district court shall set bond for the person.

(6) Upon receipt of a true copy of an order and proof of service under this section, the law enforcement agency shall enter the order into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, Act No. 163 of the Public Acts of 1974, being sections 28.211 to 28.216 of the Michigan Compiled Laws.

(7) If an order entered under section 13a(4) of chapter XIIA of Act No. 288 of the Public Acts of 1939 is rescinded, the court shall immediately order the law enforcement agency to remove the order from the law enforcement information network.

History: Add. 1993, Act 113, Imd. Eff. July 20, 1993;—Am. 1996, Act 418, Eff. Jan. 1, 1998.