

# HOUSE BILL No. 6463

October 17, 2018, Introduced by Reps. Howrylak, LaGrand, Brann, LaSata, Calley, Pagel, Howell, Rabhi, Geiss, Sowerby, Moss, Sabo, Cambensy, Hoadley, Wittenberg, Leutheuser, Ellison, Hammoud and Garrett and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending sections 9c of chapter IV and 22 of chapter XVI (MCL 764.9c and 776.22), section 9c of chapter IV as amended by 2001 PA 208 and section 22 of chapter XVI as amended by 2005 PA 106.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

CHAPTER IV

Sec. 9c. (1) Except as provided in subsection (3), if a police officer has arrested a person without a warrant for a misdemeanor or ordinance violation ~~for which the maximum permissible penalty does not exceed 93 days in jail or a fine, or both,~~ instead of taking the person before a magistrate and promptly filing a complaint as provided in section 13 of this chapter, the officer

1 may issue to and serve upon the person an appearance ticket as  
2 defined in section 9f of this chapter and release the person from  
3 custody.

4 (2) A public servant other than a police officer, who is  
5 specially authorized by law or ordinance to issue and serve  
6 appearance tickets with respect to a particular class of offenses  
7 of less than felony grade, may issue and serve upon a person an  
8 appearance ticket if the public servant has reasonable cause to  
9 believe that the person has committed an offense.

10 (3) An appearance ticket ~~shall~~ **MUST** not be issued to any of  
11 the following:

12 (a) A person arrested for a violation of section 81 or 81a of  
13 the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, or a  
14 local ordinance substantially corresponding to section 81 of the  
15 Michigan penal code, 1931 PA 328, MCL 750.81, if the victim of the  
16 assault is the offender's spouse, former spouse, an individual who  
17 has had a child in common with the offender, an individual who has  
18 or has had a dating relationship with the offender, or an  
19 individual residing or having resided in the same household as the  
20 offender. As used in this subdivision, "dating relationship" means  
21 frequent, intimate associations primarily characterized by the  
22 expectation of affectional involvement. This term does not include  
23 a casual relationship or an ordinary fraternization between 2  
24 individuals in a business or social context.

25 (b) A person subject to detainment for violating a personal  
26 protection order.

27 (c) A person subject to a mandatory period of confinement,

1 condition of bond, or other condition of release until he or she  
2 has served that period of confinement or meets that requirement of  
3 bond or other condition of release.

4 CHAPTER XVI

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

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

13 (3) The policies ~~shall~~**MUST** address, but not be limited to  
14 addressing, all of the following:

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

17 (b) Procedures for making a criminal arrest. The procedures  
18 ~~shall~~**MUST** emphasize all of the following:

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

23 (ii) When the officer has probable cause to believe spouses,  
24 former spouses, individuals who have had a child in common,  
25 individuals who have or have had a dating relationship, or other  
26 individuals who reside together or formerly resided together are  
27 committing or have committed crimes against each other, the

1 officer, when determining whether to make an arrest of 1 or both  
2 individuals, should consider the intent of this section to protect  
3 victims of domestic violence, the degree of injury inflicted on the  
4 individuals involved, the extent to which the individuals have been  
5 put in fear of physical injury to themselves or other members of  
6 the household, and any history of domestic violence between the  
7 individuals, if that history can reasonably be ascertained by the  
8 officer. In addition, the officer should not arrest an individual  
9 if the officer has reasonable cause to believe the individual was  
10 acting in lawful self-defense or in lawful defense of another  
11 individual.

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

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

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

21 (C) ~~(d)~~—Procedures for verifying a personal protection order  
22 issued under section 2950 or 2950a of the revised judicature act of  
23 1961, 1961 PA 236, MCL 600.2950 and 600.2950a.

24 (D) ~~(e)~~—Procedures for making an arrest for a violation of a  
25 personal protection order.

26 (E) ~~(f)~~—Procedures for enforcing a valid foreign protection  
27 order.

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

7           **(G)** ~~(h)~~—Procedures for informing the victim of community  
8 services and legal options that are available under section 15c of  
9 chapter IV.

10           **(H)** ~~(i)~~—Procedures for preparing a written report, whether or  
11 not an arrest is made.

12           **(I)** ~~(j)~~—Training of peace officers, dispatchers, and  
13 supervisors.

14           **(J)** ~~(k)~~—Discipline for noncompliance with the policy.

15           **(K)** ~~(l)~~—Annual evaluations of the policy.

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

19           (5) As used in this section:

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

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

1 (c) "Valid foreign protection order" means a foreign  
2 protection order that satisfies the conditions for validity  
3 provided in section 2950i of the revised judicature act of 1961,  
4 1961 PA 236, MCL 600.2950i.

5 Enacting section 1. This amendatory act takes effect 90 days  
6 after the date it is enacted into law.

7 Enacting section 2. This amendatory act does not take effect  
8 unless Senate Bill No. \_\_\_\_ or House Bill No. 6461 (request no.  
9 03481'17) of the 99th Legislature is enacted into law.