

HOUSE BILL No. 4812

May 13, 1991, Introduced by Reps. McNutt, Perry Bullard, Byrum, Dalman, Dolan, Gire, Wallace, Gilmer, Webb, Oxender, Willis Bullard, Bender, Hertel, McBryde, Leland, Olshove, Weeks, Joe Young, Sr., Yokich, Dobronski, DeMars, Profit, Berman, Kilpatrick, Emerson, Hollister, Jondahl and Dobb and referred to the Committee on Judiciary.

A bill to amend chapter IV of Act No. 175 of the Public Acts
of 1927, entitled as amended

"The code of criminal procedure,"

as amended, being sections 764.1 to 764.29 of the Michigan
Compiled Laws, by adding section 15e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Chapter IV of Act No. 175 of the Public Acts of
2 1927, as amended, being sections 764.1 to 764.29 of the Michigan
3 Compiled Laws, is amended by adding section 15e to read as
4 follows:

5 CHAPTER IV

6 SEC. 15E. (1) A PEACE OFFICER, WITHOUT A WARRANT, MAY
7 ARREST AND TAKE INTO CUSTODY A PERSON IF THE PEACE OFFICER HAS
8 REASONABLE CAUSE TO BELIEVE THAT ALL OF THE FOLLOWING EXIST:

1 (A) AN ORDER REQUIRING THE PERSON TO LEAVE THE HOME HAS BEEN
2 ISSUED BY THE PROBATE COURT PURSUANT TO SECTION 13A(4) OF CHAPTER
3 XIIA OF ACT NO. 288 OF THE PUBLIC ACTS OF 1939, BEING SECTION
4 712A.13A OF THE MICHIGAN COMPILED LAWS, STATING ON ITS FACE THE
5 PERIOD OF TIME FOR WHICH THE ORDER IS VALID.

6 (B) A TRUE COPY OF THE ORDER AND PROOF OF SERVICE HAS BEEN
7 FILED WITH THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION OF THE
8 AREA IN WHICH THE PERSON HAVING CUSTODY OF THE CHILD PURSUANT TO
9 SECTION 13A(4) OF CHAPTER XIIA OF ACT NO. 288 OF THE PUBLIC ACTS
10 OF 1939 RESIDES.

11 (C) THE PERSON NAMED IN THE ORDER HAS RECEIVED NOTICE OF THE
12 ORDER.

13 (D) THE PERSON NAMED IN THE ORDER IS ACTING IN VIOLATION OF
14 THE ORDER.

15 (E) THE ORDER STATES ON ITS FACE THAT A VIOLATION OF ITS
16 TERMS SUBJECTS THE PERSON TO CRIMINAL CONTEMPT OF COURT AND, IF
17 FOUND GUILTY, THE PERSON SHALL BE IMPRISONED FOR NOT MORE THAN 90
18 DAYS AND MAY BE FINED NOT MORE THAN \$500.00.

19 (2) A PERSON ARRESTED PURSUANT TO THIS SECTION SHALL BE
20 BROUGHT BEFORE THE PROBATE COURT HAVING JURISDICTION IN THE CAUSE
21 WITHIN 24 HOURS AFTER ARREST TO ANSWER TO A CHARGE OF CONTEMPT
22 FOR VIOLATION OF THE ORDER, AT WHICH TIME THE COURT SHALL DO EACH
23 OF THE FOLLOWING:

24 (A) SET A TIME CERTAIN FOR A HEARING ON THE ALLEGED VIOLA-
25 TION OF THE ORDER WITHIN 72 HOURS AFTER ARREST, UNLESS EXTENDED
26 BY THE COURT ON THE MOTION OF THE ARRESTED PERSON.

1 (B) SET A REASONABLE BOND PENDING A HEARING OF THE ALLEGED
2 VIOLATION OF THE ORDER.

3 (C) NOTIFY THE PERSON HAVING CUSTODY OF THE CHILD PURSUANT
4 TO SECTION 13A(4) OF CHAPTER XIIA OF ACT NO. 288 OF THE PUBLIC
5 ACTS OF 1939 AND DIRECT THAT PERSON TO APPEAR AT THE HEARING AND
6 GIVE EVIDENCE ON THE CHARGE OF CONTEMPT.

7 (3) IF THE PROBATE JUDGE IS NOT PRESENT OR AVAILABLE WITHIN
8 24 HOURS AFTER ARREST, A PERSON ARRESTED PURSUANT TO THIS SECTION
9 SHALL BE TAKEN BEFORE THE DISTRICT COURT WITHIN 24 HOURS AFTER
10 ARREST, AT WHICH TIME THE DISTRICT COURT SHALL ORDER THE
11 DEFENDANT TO APPEAR BEFORE THE PROBATE COURT THAT ENTERED THE
12 ORDER FOR A HEARING ON THE CHARGE. THE DISTRICT COURT SHALL SET
13 BOND FOR THE PERSON.

14 (4) UPON RECEIPT OF A TRUE COPY OF AN ORDER AND PROOF OF
15 SERVICE PURSUANT TO THIS SECTION, THE LAW ENFORCEMENT AGENCY
16 SHALL ENTER THE ORDER INTO THE LAW ENFORCEMENT INFORMATION NET-
17 WORK AS PROVIDED BY THE L.E.I.N. POLICY COUNCIL ACT OF 1974, ACT
18 NO. 163 OF THE PUBLIC ACTS OF 1974, BEING SECTIONS 28.211 TO
19 28.216 OF THE MICHIGAN COMPILED LAWS.

20 Section 2. This amendatory act shall not take effect unless
21 Senate Bill No. _____ or House Bill No. 4810 (request
22 no. 01384'91 *) of the 86th Legislature is enacted into law.