



Olds Plaza Building, 10th Floor  
Lansing, Michigan 48909  
Phone: 517/373-6466

## DOMESTIC VIOLENCE COMPLAINTS

House Bill 4361 as enrolled  
Second Analysis (7-25-94)

Sponsor: Rep. Sharon Gire  
House Committee: Judiciary  
Senate Committee: Judiciary

### ***THE APPARENT PROBLEM:***

Despite a growing public awareness about domestic violence and its consequences for family members and society as a whole, and despite the enactment of various laws aimed at reducing domestic violence and providing shelter and services to victims of abuse, domestic violence continues at an alarming rate. Nationwide, some three to four million women annually are physically attacked by their husbands or partners; about four women each day are killed. Michigan's domestic violence figures are equally sobering: in 1991, there was a domestic violence-related homicide every five days. In 1985, local agencies reported 16,576 domestic violence offenses to the Michigan State Police; in 1990, that figure was 25,436; in 1991, 27,201, and in 1992, 29,891. While it is unclear to what degree these figures reflect an increase in reporting, rather than an increase in the rate of violence, it is clear that domestic violence remains a significant problem in this state.

One approach to dealing with domestic violence is to promote a strong and consistent enforcement of laws against domestic assault. However, reports are that district court magistrates sometimes dismiss assault complaints in domestic violence situations if the victim has not signed the complaint--this notwithstanding the fact that the Code of Criminal Procedure authorizes police officers and others to sign criminal complaints based upon their own personal knowledge or information and belief. As it is sometimes difficult to get fearful victims of domestic violence to sign complaints, it has been proposed to explicitly forbid a magistrate from dismissing a domestic violence complaint because it had not been signed by the victim.

### ***THE CONTENT OF THE BILL:***

The bill would amend the Code of Criminal Procedure to forbid a magistrate from refusing to

accept a domestic assault complaint on the basis that it had been signed by an individual other than the victim. The bill would take effect July 1, 1994.

MCL 764.1a

### ***FISCAL IMPLICATIONS:***

The Senate Fiscal Agency has said that the bill could potentially increase costs to the courts because the number of domestic violence complaints could rise as interested or concerned persons, rather than the victim, reported the crime. (3-4-94)

### ***ARGUMENTS:***

#### ***For:***

Many perpetrators of domestic violence fail to take responsibility for their actions and blame the victim; to the degree that society fails to hold these people accountable for their actions, it reinforces this belief and decreases the chances that the person will change his or her behavior. Domestic violence is not a private matter, and legal intervention can effectively get this message across. To this end, legislation has been proposed that would strengthen law enforcement response to domestic violence. The bill, part of this larger package, would further those aims by eliminating at least one impediment to effective enforcement of laws against domestic assaults, namely the apparent reluctance of some magistrates to accept assault complaints that are not pursued by the victim. Victims are often reluctant to undertake legal recourse, fearing further injury or loss of economic support; the bill would ensure that the assistance of a frightened victim was not necessary to commence legal action. The bill would not be solely punitive in its effect: arrest can provide the means of getting the offender into court-ordered counseling.

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***Against:***

The need for the bill is questionable; if the problem is the occasional magistrate wrongly dismissing complaints, then the matter should be resolvable through training or by bringing the matter to the attention of the magistrate's superior, the district judge.

***Response:***

Part of the difficulty in solving problems with domestic violence lies in overcoming an institutionalized attitude that domestic violence is a family matter outside the proper purview of law enforcement efforts. The bill would counter this attitude with the strength of statute.

***Against:***

The legislation is too narrow because it fails to address relationships where there had been dating, but no cohabitation; the abuse that sometimes arises in dating relationships can, unfortunately, be just as deadly as spousal abuse.

***Response:***

Special laws on spousal abuse have developed at least in part because of an historical failure by the criminal justice system to respond adequately to in-family domestic assault. To the extent that this focus is lost, the law could be diluted. Also, to include dating or other nonspousal relationships in the bill could lead to difficulty in defining what constitutes a dating relationship.