



HOUSE BILL No. 5469

April 19 1994 Introduced by Reps Rivers Gire Freeman Dobronski Wallace McNutt Stallworth Baade Joe Young Jr Schroer and Pitoniak and referred to the Committee on Judiciary

A bill to amend section 15b of chapter IV of Act No 175 of the Public Acts of 1927, entitled as amended

"The code of criminal procedure,"

as amended by Act No 251 of the Public Acts of 1992, being section 764 15b of the Michigan Compiled Laws

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Section 15b of chapter IV of Act No 175 of the
2 Public Acts of 1927, as amended by Act No 251 of the Public Acts
3 of 1992, being section 764 15b of the Michigan Compiled Laws, is
4 amended to read as follows

CHAPTER IV

5
6 Sec 15b (1) A peace officer, without a warrant, may
7 arrest and take into custody a person when the peace officer has
8 reasonable cause to believe that all of the following exist

(a) One of the following injunctive orders

(1) An injunctive order issued pursuant to section 14 of chapter 84 of the Revised Statutes of 1846, as amended, being section 552 14 of the Michigan Compiled Laws

(2) An injunctive order issued by the circuit court as authorized by law and stating on its face the period of time for which the order is valid and specifically restraining or enjoining a spouse, a former spouse, or a person residing or having resided in the same household as the victim from entering onto premises from assaulting, beating, molesting or wounding a named person, or from removing minor children from the person having legal custody of the children

(3) An injunctive order issued by the circuit court as authorized by law and stating on its face the period of time for which the order is valid and specifically restraining or enjoining a person from engaging in conduct prohibited under section 411h or 411i of the Michigan penal code Act No 328 of the Public Acts of 1931, being sections 750 411h and 750 411i of the Michigan Compiled Laws

(b) A true copy and proof of service of the order has been filed with the law enforcement agency having jurisdiction of the area in which the moving party resides

(c) The person named in the order has received notice of the injunctive order FOR PURPOSES OF THIS SECTION, THE PERSON HAS RECEIVED NOTICE OF AN ORDER WHEN 1 OF THE FOLLOWING CIRCUMSTANCES EXIST

1 (i) THE PERSON RECEIVES ACTUAL NOTICE OF THE ORDER

2 (ii) THERE HAVE BEEN 2 ATTEMPTS TO SERVE THE ORDER
3 PERSONALLY AT THE PERSON'S LAST KNOWN ADDRESS

4 (iii) THERE HAS BEEN AN ATTEMPT TO SERVE THE ORDER BY CERTI-
5 FIED MAIL TO THE PERSON'S LAST KNOWN ADDRESS

6 (iv) THE PERSON'S ATTORNEY HAS BEEN SERVED WITH THE ORDER

7 (v) THE PERSON HAS APPEARED AT A PRIOR COURT HEARING REGARD-
8 ING DOMESTIC VIOLENCE IN THE SAME CASE IN WHICH SERVICE OF THE
9 ORDER IS BEING ATTEMPTED

10 (d) The person named in the order is acting in violation of
11 the order A person is in violation of the order if that person
12 commits 1 or more of the following acts specifically enumerated
13 in the order to restrain or enjoin the person from

14 (i) Assaulting, beating, molesting, or wounding a named
15 person

16 (ii) Removing minor children from a person having legal cus-
17 tody of the children, in violation of custody and visitation
18 orders as issued by the court

19 (iii) Entering onto premises

20 (iv) Engaging in conduct prohibited under section 411h or
21 411i of Act No 328 of the Public Acts of 1931

22 (e) The order states on its face that a violation of its
23 terms subjects the person to immediate arrest and to criminal
24 contempt of court and, if found guilty of criminal contempt, the
25 person shall be imprisoned for not more than 90 days and may be
26 fined not more than \$500 00

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

6 (a) Set a time certain for a hearing on the alleged viola-
7 tion of the injunctive order within 72 hours after arrest, unless
8 extended by the court on the motion of the arrested person

9 (b) Set a reasonable bond pending a hearing of the alleged
10 violation of the injunctive order

11 (c) Notify the party who has procured the injunctive order
12 and direct the party to appear at the hearing and give evidence
13 on the charge of contempt

14 (3) In circuits where the circuit court judge may not be
15 present or available within 24 hours after arrest, a person
16 arrested pursuant to this section shall be taken before the dis-
17 trict court within 24 hours after arrest, at which time the dis-
18 trict court shall order the defendant to appear before the cir-
19 cuit court of the county for a hearing on the charge The dis-
20 trict court shall set bond for the person

21 (4) The circuit court for each county of this state ~~shall~~
22 ~~have~~ HAS jurisdiction to conduct contempt proceedings based upon
23 a violation of an injunctive order as provided in this section ~~7~~
24 ~~which is~~ issued by the circuit court in any county of this
25 state The court of arraignment shall notify the circuit court
26 ~~which~~ THAT issued the injunctive order that the issuing court
27 may request that the defendant be returned to that county for

1 violating the injunctive order If the circuit court ~~which~~
2 THAT issued the injunctive order requests that the defendant be
3 returned to that county to stand trial, then the requesting
4 county shall bear the cost of transporting the defendant to that
5 county

6 (5) Upon receipt of a true copy and proof of service of an
7 injunctive order issued pursuant to this section, the law
8 enforcement agency shall enter the order into the law enforcement
9 information network as provided by the L E I N policy council
10 act of 1974, Act No 163 of the Public Acts of 1974, being sec-
11 tions 28 211 to 28 216 of the Michigan Compiled Laws