

SENATE BILL NO. 1046

July 23, 2020, Introduced by Senators VICTORY, SANTANA, CHANG, WOJNO, BAYER, BULLOCK, ALEXANDER, IRWIN, MOSS, MCMORROW, GEISS, MCCANN, BRINKS, POLEHANKI, HERTEL and DALEY and referred to the Committee on Judiciary and Public Safety.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending sections 9c and 9f of chapter IV (MCL 764.9c and
764.9f), section 9c of chapter IV as amended by 2001 PA 208 and
section 9f of chapter IV as amended by 1999 PA 76.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER IV
2 Sec. 9c. (1) Except as provided in subsection (3), if a police
3 officer has arrested a person without a warrant for a misdemeanor
4 or ordinance violation, ~~for which the maximum permissible penalty~~

1 ~~does not exceed 93 days in jail or a fine, or both,~~ instead of
2 taking the person before a magistrate and promptly filing a
3 complaint as provided in section 13 of this chapter, the officer
4 may issue to and serve upon the person an appearance ticket as
5 defined in section 9f of this chapter and release the person from
6 custody. **The police report created in connection with the issuance**
7 **of an appearance ticket under this section must be forwarded to the**
8 **appropriate prosecuting authority not more than 48 hours after the**
9 **issuance of the ticket if the ticket was issued on a weekday, or**
10 **not more than 72 hours after the issuance of the ticket if the**
11 **ticket was issued on a weekend day or a holiday.**

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

18 (3) An appearance ticket ~~shall~~**must** not be issued to any of
19 the following:

20 (a) A person arrested for ~~a violation of section 81 or 81a of~~
21 ~~the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, or a~~
22 ~~local ordinance substantially corresponding to section 81 of the~~
23 ~~Michigan penal code, 1931 PA 328, MCL 750.81, if the victim of the~~
24 ~~assault is the offender's spouse, former spouse, an individual who~~
25 ~~has had a child in common with the offender, an individual who has~~
26 ~~or has had a dating relationship with the offender, or an~~
27 ~~individual residing or having resided in the same household as the~~
28 ~~offender. As used in this subdivision, "dating relationship" means~~
29 ~~frequent, intimate associations primarily characterized by the~~

~~expectation of affectional involvement. This term does not include~~
~~a casual relationship or an ordinary fraternization between 2~~
~~individuals in a business or social context.~~ **an offense involving**
domestic violence as that term is defined in section 1 of 1978 PA
389, MCL 400.1501.

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

(c) A person subject to a mandatory period of confinement,
condition of bond, or other condition of release until he or she
has served that period of confinement or meets that requirement of
bond or other condition of release.

(4) Except as provided in subsection (5), a police officer
shall issue to and serve upon a person an appearance ticket as
defined in section 9f of this chapter and release the person from
custody if the person has been arrested for 1 of the following
offenses:

(a) A misdemeanor or ordinance violation that has a maximum
permissible penalty that does not exceed 93 days in jail or a fine,
or both, and is not an offense involving domestic violence as that
term is defined in section 1 of 1978 PA 389, MCL 400.1501.

(b) A misdemeanor or ordinance violation that involves
property theft or property damage.

(c) A misdemeanor or ordinance violation that involves the use
of a controlled substance.

(5) The police officer may arrest the person instead of
issuing an appearance ticket as required under subsection (4) if 1
of the following circumstances is present:

(a) The detained person refuses to follow the police officer's
reasonable instructions.

1 (b) The detained person will not offer satisfactory evidence
2 of identification.

3 (c) There is a reasonable likelihood that the offense would
4 continue or resume, or that another person or property would be
5 endangered if the person is not arrested and taken into custody.

6 (d) The detained person requires immediate medical examination
7 or medical care.

8 (e) The detained person requests to be taken immediately
9 before a magistrate.

10 (6) If a police officer determines that 1 of the circumstances
11 under subsection (5) applies and he or she arrests a person instead
12 of issuing an appearance ticket, the police officer must specify
13 the reason for not issuing a citation in the arrest report.

14 Sec. 9f. (1) As used in sections 9c to 9g, "appearance ticket"
15 means a complaint or written notice issued and subscribed by a
16 police officer or other public servant authorized by law or
17 ordinance to issue it directing a designated person to appear in a
18 designated local criminal court at a designated future time in
19 connection with his or her alleged commission of a designated
20 violation or violations of state law or local ordinance. ~~for which~~
21 ~~the maximum permissible penalty does not exceed 93 days in jail or~~
22 ~~a fine, or both.~~ The appearance tickets ~~shall~~ **must** be numbered
23 consecutively, **provide a space for the defendant's cellular phone**
24 **number, if applicable,** be in a form required by the attorney
25 general, the state court administrator, and the director of the
26 department of state police, and consist of the following parts:

27 (a) The original which ~~shall~~ **must** be a complaint or notice to
28 appear by the officer and filed with the court.

29 (b) The first copy which ~~shall~~ **must** be the abstract of court

1 record.

2 (c) The second copy which ~~shall~~**must** be retained by the local
3 enforcement agency.

4 (d) The third copy which ~~shall~~**must** be delivered to the
5 alleged violator.

6 (2) With the prior approval of the state officials listed in
7 subsection (1), an appearance ticket may be appropriately modified
8 as to content or number of copies to accommodate law enforcement
9 and local court procedures and practices.