

**SUBSTITUTE FOR
HOUSE BILL NO. 4951**

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 10d of chapter II, sections 1a and 3 of chapter IV, section 6e of chapter V, section 4a of chapter IX, and sections 13k, 16d, and 16p of chapter XVII (MCL 762.10d, 764.1a, 764.3, 765.6e, 769.4a, 777.13k, 777.16d, and 777.16p), section 10d of chapter II, section 3 of chapter IV, and section 6e of chapter V as added and section 1a of chapter IV as amended by 2020 PA 394, section 4a of chapter IX as amended by 2019 PA 115, section 13k of chapter XVII as amended by 2018 PA 587, section 16d of chapter XVII as amended by 2023 PA 59, and section 16p of chapter XVII as amended by 2008 PA 467.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER II

1
2 Sec. 10d. (1) Except in cases in which the person is alleged
3 to have committed an assaultive crime or an offense involving
4 domestic violence, a person who is wanted on a bench warrant or a
5 warrant of arrest who voluntarily ~~presents himself or herself~~ **goes**
6 to the court that issued the warrant within 1 year of the warrant
7 issuance must be processed by the court according to this section.

8 (2) If a judicial officer is available to arraign the person
9 on the warrant within 2 hours of the person's appearance, the court
10 must arraign the person and set ~~his or her~~ **the** case for the next
11 stage of criminal proceedings. It must be presumed that the person
12 is not a flight risk when the court sets bond or other conditions
13 of release at an arraignment under this subsection.

14 (3) If a judicial officer is not available to arraign the
15 person on the warrant within 2 hours of the person's appearance,
16 the court shall recall the warrant and schedule the case for future
17 arraignment.

18 (4) A court may deny a person the benefit of the procedure
19 provided for in this section if the person has already benefitted
20 from the procedure on any pending criminal charges.

21 (5) As used in this section:

22 (a) "Assaultive crime" includes any of the following:

23 (i) A violation described in section 9a of chapter X.

24 (ii) A violation of chapter XI of the Michigan penal code, 1931
25 PA 328, MCL 750.81 to ~~750.90h~~, **750.90g**, not otherwise included in
26 subparagraph (i).

27 (iii) A violation of section 110a, 136b, 234a, 234b, 234c, 349b,
28 or 411h of the Michigan penal code, 1931 PA 328, MCL 750.110a,
29 750.136b, 750.234a, 750.234b, 750.234c, 750.349b, and 750.411h, or

1 any other violent felony.

2 (iv) A violation of a law of another state or of a political
3 subdivision of this state or of another state that substantially
4 corresponds to a violation described in subparagraph (i), (ii), or
5 (iii).

6 (b) "Domestic violence" means that term as defined in section
7 1 of 1978 PA 389, MCL 400.1501.

8 (c) "Violent felony" means that term as defined in section 36
9 of the corrections code of 1953, 1953 PA 232, MCL 791.236.

10 CHAPTER IV

11 Sec. 1a. (1) A magistrate shall issue a warrant or summons
12 upon presentation of a proper complaint alleging the commission of
13 an offense and a finding of reasonable cause to believe that the
14 individual accused in the complaint committed that offense. The
15 complaint must be sworn to before a magistrate or clerk.

16 (2) Except in cases in which any of the following
17 circumstances apply, the magistrate or clerk must issue a summons
18 rather than a warrant:

19 (a) The complaint is for an assaultive crime or an offense
20 involving domestic violence.

21 (b) The clerk or magistrate has reason to believe from the
22 presentation of the complaint that the person against whom the
23 complaint was made will not appear upon a summons.

24 (c) The issuance of summons poses a risk to public safety.

25 (d) The prosecutor has requested a warrant.

26 (3) A summons must be in the same form as a warrant except
27 that it must summon the defendant to appear before a court at a
28 stated date and time. The summons must be served upon a defendant
29 by delivering a copy to ~~him or her~~ **the defendant** personally, by

1 leaving it at ~~his or her~~ **the defendant's** dwelling house or usual
2 place of abode with some person of suitable age and discretion
3 residing at that place, or by mailing it to the defendant's last
4 known address. If a defendant fails to appear in response to the
5 summons, a warrant may be issued.

6 (4) The finding of reasonable cause by the magistrate may be
7 based upon 1 or more of the following:

8 (a) Factual allegations of the complainant contained in the
9 complaint.

10 (b) The complainant's sworn testimony.

11 (c) The complainant's affidavit.

12 (d) Any supplemental sworn testimony or affidavits of other
13 individuals presented by the complainant or required by the
14 magistrate.

15 (5) The magistrate may require sworn testimony of the
16 complainant or other individuals. Supplemental affidavits may be
17 sworn to before an individual authorized by law to administer
18 oaths. The factual allegations contained in the complaint,
19 testimony, or affidavits may be based upon personal knowledge,
20 information and belief, or both.

21 (6) The magistrate shall not refuse to accept a complaint
22 alleging a violation of section 81 or 81a of the Michigan penal
23 code, 1931 PA 328, MCL 750.81 and 750.81a, or a violation of a
24 local ordinance substantially corresponding to section 81 of the
25 Michigan penal code, 1931 PA 328, MCL 750.81, by the spouse of the
26 victim, a former spouse of the victim, an individual with whom the
27 victim has had a child in common, an individual with whom the
28 victim has or has had a dating relationship, or an individual
29 residing or having resided in the same household as the victim on

1 grounds that the complaint is signed upon information and belief by
2 an individual other than the victim.

3 (7) The magistrate shall not refuse to accept a complaint
4 alleging that a crime was committed in which the victim is a
5 vulnerable adult on the grounds that the complaint is signed upon
6 information and belief by an individual other than the victim.

7 (8) A warrant or summons may be issued under this section only
8 upon compliance with the requirements of section 1 of this chapter.

9 (9) As used in this section:

10 (a) "Assaultive crime" includes any of the following:

11 (i) A violation described in section 9a of chapter X.

12 (ii) A violation of chapter XI of the Michigan penal code, 1931
13 PA 328, MCL 750.81 to ~~750.90h~~, **750.90g**, not otherwise included in
14 subparagraph (i).

15 (iii) A violation of section 110a, 136b, 234a, 234b, 234c, 349b,
16 or 411h of the Michigan penal code, 1931 PA 328, MCL 750.110a,
17 750.136b, 750.234a, 750.234b, 750.234c, 750.349b, and 750.411h, or
18 any other violent felony.

19 (iv) A violation of a law of another state or of a political
20 subdivision of this state or of another state that substantially
21 corresponds to a violation described in subparagraph (i), (ii), or
22 (iii).

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

28 (c) "Domestic violence" means that term as defined in section
29 1 of 1978 PA 389, MCL 400.1501.

1 (d) "Violent felony" means that term as defined in section 36
2 of the corrections code of 1953, 1953 PA 232, MCL 791.236.

3 (e) "Vulnerable adult" means that term as defined in section
4 145m of the Michigan penal code, 1931 PA 328, MCL 750.145m.

5 Sec. 3. (1) Notwithstanding any provision of law to the
6 contrary and except in cases where the complaint is for an
7 assaultive crime or an offense involving domestic violence, in the
8 event that a defendant fails to appear for a court hearing and it
9 is the defendant's first failure to appear in the case, there is a
10 rebuttable presumption that the court must wait 48 hours before
11 issuing a bench warrant to allow the defendant to voluntarily
12 appear. If the defendant does not appear within 48 hours, the court
13 shall issue a bench warrant unless the court believes there is good
14 reason to instead schedule the case for further hearing.

15 (2) When a court delays the issuance of a warrant, the court
16 shall not revoke the release order or declare bail money deposited
17 or the surety bond, if any, forfeited. Upon the issuance of the
18 arrest warrant, the court may then enter an order revoking the
19 release order and declaring the bail money deposited, personal
20 recognizance bond, surety bond, or 10% bond, if any, forfeited.

21 (3) The court may overcome the presumption under subsection
22 (1) and issue an immediate bench warrant for the defendant's
23 failure to appear if the court has a specific articulable reason to
24 suspect that any of the following apply:

25 (a) The defendant has committed a new crime.

26 (b) A person or property will be endangered if a bench warrant
27 is not issued.

28 (c) Prosecution witnesses have been summoned and are present
29 for the proceeding.

1 (d) The proceeding is to impose a sentence for the crime.

2 (e) There are other compelling circumstances that require the
3 immediate issuance of a bench warrant.

4 (4) If the court departs from the presumption under subsection
5 (1) and issues an immediate bench warrant, the court must state on
6 the record its reasons for doing so.

7 (5) As used in this section:

8 (a) "Assaultive crime" includes any of the following:

9 (i) A violation described in section 9a of chapter X.

10 (ii) A violation of chapter XI of the Michigan penal code, 1931
11 PA 328, MCL 750.81 to ~~750.90h~~, **750.90g**, not otherwise included in
12 subparagraph (i).

13 (iii) A violation of section 110a, 136b, 234a, 234b, 234c, 349b,
14 or 411h of the Michigan penal code, 1931 PA 328, MCL 750.110a,
15 750.136b, 750.234a, 750.234b, 750.234c, 750.349b, and 750.411h, or
16 any other violent felony.

17 (iv) A violation of a law of another state or of a political
18 subdivision of this state or of another state that substantially
19 corresponds to a violation described in subparagraph (i), (ii), or
20 (iii).

21 (b) "Domestic violence" means that term as defined in section
22 1 of 1978 PA 389, MCL 400.1501.

23 (c) "Violent felony" means that term as defined in section 36
24 of the corrections code of 1953, 1953 PA 232, MCL 791.236.

25 CHAPTER V

26 Sec. 6e. (1) Except in cases in which the person is alleged to
27 have committed an assaultive crime or an offense involving domestic
28 violence, a person who is detained on warrant of arrest in a county
29 other than the county from which the warrant originated must be

1 released from custody if the county from which the warrant
 2 originated does not make arrangements within 48 hours from the time
 3 the person was detained to pick the person up and does not in fact
 4 pick the person up within 72 hours after the time ~~he or she~~ **the**
 5 **person** was detained. If a person is released from custody under
 6 this section, the releasing facility must contact the originating
 7 court and obtain a court date for the defendant to appear.

8 (2) As used in this section:

9 (a) "Assaultive crime" includes any of the following:

10 (i) A violation described in section 9a of chapter X.

11 (ii) A violation of chapter XI of the Michigan penal code, 1931
 12 PA 328, MCL 750.81 to ~~750.90h~~, **750.90g**, not otherwise included in
 13 subparagraph (i).

14 (iii) A violation of section 110a, 136b, 234a, 234b, 234c, 349b,
 15 or 411h of the Michigan penal code, 1931 PA 328, MCL 750.110a,
 16 750.136b, 750.234a, 750.234b, 750.234c, 750.349b, and 750.411h, or
 17 any other violent felony.

18 (iv) A violation of a law of another state or of a political
 19 subdivision of this state or of another state that substantially
 20 corresponds to a violation described in subparagraph (i), (ii), or
 21 (iii).

22 (b) "Domestic violence" means that term as defined in section
 23 1 of 1978 PA 389, MCL 400.1501.

24 (c) "Violent felony" means that term as defined in section 36
 25 of the corrections code of 1953, 1953 PA 232, MCL 791.236.

26 CHAPTER IX

27 Sec. 4a. (1) When an individual who has not been convicted
 28 previously of an assaultive crime pleads guilty to, or is found
 29 guilty of, a violation of section 81 or 81a of the Michigan penal

1 code, 1931 PA 328, MCL 750.81 and 750.81a, and the victim of the
2 assault is the offender's spouse or former spouse, an individual
3 who has had a child in common with the offender, an individual who
4 has or has had a dating relationship with the offender, or an
5 individual residing or having resided in the same household as the
6 offender, the court, without entering a judgment of guilt and with
7 the consent of the accused and of the prosecuting attorney in
8 consultation with the victim, may defer further proceedings and
9 place the accused on probation as provided in this section.
10 However, before deferring proceedings under this subsection, the
11 court shall contact the department of state police and determine
12 whether, according to the records of the department of state
13 police, the accused has previously been convicted of an assaultive
14 crime or has previously ~~availed himself or herself of~~ **had**
15 **proceedings deferred under** this section. If the search of the
16 records reveals an arrest for an assaultive crime but no
17 disposition, the court shall contact the arresting agency and the
18 court that had jurisdiction over the violation to determine the
19 disposition of that arrest for purposes of this section.

20 (2) Upon a violation of a term or condition of probation, the
21 court may enter an adjudication of guilt and proceed as otherwise
22 provided in this chapter.

23 (3) An order of probation entered under subsection (1) may
24 include any condition of probation authorized under section 3 of
25 chapter XI, including, but not limited to, requiring the accused to
26 participate in a mandatory counseling program. The court may order
27 the accused to pay the reasonable costs of the mandatory counseling
28 program. The court also may order the accused to participate in a
29 drug treatment court under chapter 10A of the revised judicature

1 act of 1961, 1961 PA 236, MCL 600.1060 to 600.1088. The court may
2 order the defendant to be imprisoned for not more than 12 months at
3 the time or intervals, which may be consecutive or nonconsecutive
4 and within the period of probation, as the court determines.
5 However, the period of imprisonment must not exceed the maximum
6 period of imprisonment authorized for the offense if the maximum
7 period is less than 12 months. The court may permit day parole as
8 authorized under 1962 PA 60, MCL 801.251 to 801.258. The court may
9 permit a work or school release from jail.

10 (4) The court shall enter an adjudication of guilt and proceed
11 as otherwise provided in this chapter if any of the following
12 circumstances exist:

13 (a) The accused commits an assaultive crime during the period
14 of probation.

15 (b) The accused violates an order of the court that ~~he or she~~
16 **the accused** receive counseling regarding ~~his or her~~ **the accused's**
17 violent behavior.

18 (c) The accused violates an order of the court that ~~he or she~~
19 **the accused** have no contact with a named individual.

20 (5) Upon fulfillment of the terms and conditions, the court
21 shall discharge the person and dismiss the proceedings against the
22 person. Discharge and dismissal under this section must be without
23 adjudication of guilt and is not a conviction for purposes of this
24 section or for purposes of disqualifications or disabilities
25 imposed by law upon conviction of a crime, but it is a prior
26 conviction in a prosecution under sections 81(4) and (5) and 81a(3)
27 of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a.
28 There must be only 1 discharge and dismissal under this section
29 with respect to any individual.

1 (6) All court proceedings under this section must be open to
2 the public. Except as provided in subsection (7), if the record of
3 proceedings as to the defendant is deferred under this section, the
4 record of proceedings during the period of deferral must be closed
5 to public inspection.

6 (7) Unless the court enters a judgment of guilt under this
7 section, the department of state police shall retain a nonpublic
8 record of the arrest, court proceedings, and disposition of the
9 criminal charge under this section. However, the nonpublic record
10 must be open to the following individuals and entities for the
11 purposes noted:

12 (a) The courts of this state, law enforcement personnel, the
13 department of corrections, and prosecuting attorneys for use only
14 in the performance of their duties or to determine whether an
15 employee of the court, law enforcement agency, department of
16 corrections, or prosecutor's office has violated ~~his or her~~ **the**
17 conditions of employment or whether an applicant meets criteria for
18 employment with the court, law enforcement agency, department of
19 corrections, or prosecutor's office.

20 (b) The courts of this state, law enforcement personnel, and
21 prosecuting attorneys for either of the following purposes:

22 (i) Showing that a defendant in a criminal action under section
23 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and
24 750.81a, or a local ordinance substantially corresponding to
25 section 81 of that act has already once ~~availed himself or herself~~
26 **of had proceedings deferred under** this section.

27 (ii) Determining whether the defendant in a criminal action is
28 eligible for discharge and dismissal of proceedings by a drug
29 treatment court under section 1076(5) of the revised judicature act

1 of 1961, 1961 PA 236, MCL 600.1076.

2 (c) The department of health and human services for enforcing
3 child protection laws and vulnerable adult protection laws or
4 ascertaining the preemployment criminal history of any individual
5 who will be engaged in the enforcement of child protection laws or
6 vulnerable adult protection laws.

7 (8) As used in this section:

8 (a) "Assaultive crime" means 1 or more of the following:

9 (i) That term as defined in section 9a of chapter X.

10 (ii) A violation of chapter XI of the Michigan penal code, 1931
11 PA 328, MCL 750.81 to ~~750.90h~~-750.90g.

12 (iii) A violation of a law of another state or of a local
13 ordinance of a political subdivision of this state or of another
14 state substantially corresponding to a violation described in
15 subparagraph (i) or (ii).

16 (b) "Dating relationship" means frequent, intimate
17 associations primarily characterized by the expectation of
18 affectional involvement. This term does not include a casual
19 relationship or an ordinary fraternization between 2 individuals in
20 a business or social context.

21 CHAPTER XVII

22 Sec. 13k. This chapter applies to the following felonies
23 enumerated in chapter 333 of the Michigan Compiled Laws:

24 M.C.L.	Category	Class	Description	Stat Max
25 333.2685	Person	E	26 Use of a live human 27 embryo, fetus, or 28 neonate for 29 nontherapeutic research	5

1	333.2688	Person	E	Research on dead	5
2				embryo, fetus, or	
3				neonate without	
4				mother's consent	
5	333.2689	Person	E	Abortion to obtain	5
6				embryo or fetus	
7	333.2690 (1)	Person	E	Sale or delivery of	5
8				fetus, embryo, or	
9				neonate for certain	
10				purposes	
11	333.2690 (2)	Person	E	Financially benefiting	5
12				from granting certain	
13				persons access to an	
14				embryo, fetus, or	
15				neonate or from	
16				transferring	
17				possession of an	
18				embryo, fetus, or	
19				neonate to certain	
20				persons	
21	333.2813 (3)	Pub trst	F	Unauthorized	4
22				disclosure of social	
23				security number -	
24				subsequent offense	
25	333.2835 (9)	Pub trst	G	Disclosing	3
26				confidential	
27				information - abortion	

1	333.2841 (3)	Pub ord	E	Failure to inform law	5
2				enforcement or funeral	
3				home of discovery of	
4				dead body with purpose	
5				of concealing fact or	
6				cause of death	
7	333.5210 (1)	Person	F	Person who has HIV	4
8				knowingly engaging in	
9				vaginal or anal	
10				intercourse with	
11				uninfected person	
12				without informing the	
13				person he or she has	
14				HIV with the intent to	
15				infect that person	
16				with HIV	
17	333.5210 (2)	Person	F	Person who has HIV	4
18				knowingly engaging in	
19				vaginal or anal	
20				intercourse with	
21				uninfected person	
22				without informing the	
23				person he or she has	
24				HIV with reckless	
25				disregard and	
26				resulting in the	
27				person contracting HIV	
28	333.5661	Person	F	Fraud resulting in	4
29				patient death	

1 Sec. 16d. This chapter applies to the following felonies
2 enumerated in chapter 750 of the Michigan Compiled Laws:

3	M.C.L.	Category	Class	Description	Stat Max
4	750.81(5)	Person	E	Domestic assault or	5
5				assault of a pregnant	
6				individual with prior	
7				convictions	
8	750.81a(3)	Person	E	Aggravated domestic	5
9				assault with prior	
10				convictions	
11	750.81d(1)	Person	G	Assaulting, resisting,	2
12				or obstructing certain	
13				persons	
14	750.81d(2)	Person	F	Assaulting, resisting,	4
15				or obstructing certain	
16				persons causing bodily	
17				injury requiring	
18				medical attention	
19	750.81d(3)	Person	C	Assaulting, resisting,	15
20				or obstructing certain	
21				persons causing	
22				serious impairment	
23	750.81d(4)	Person	B	Assaulting, resisting,	20
24				or obstructing certain	
25				persons causing death	
26	750.81e(2)	Person	G	Assault on utility	2
27				worker causing bodily	
28				injury requiring	
29				medical attention	

1	750.81e(3)	Person	E	Assault on utility	5
2				worker causing serious	
3				impairment of a body	
4				function	
5	750.82(1)	Person	F	Felonious assault	4
6	750.82(2)	Person	F	Felonious assault -	4
7				weapon-free school	
8				zone	
9	750.83	Person	A	Assault with intent to	Life
10				murder	
11	750.84(1)(a)	Person	D	Assault with intent to	10
12				do great bodily harm	
13				less than murder	
14	750.84(1)(b)	Person	D	Assault by	10
15				strangulation or	
16				suffocation	
17	750.85	Person	A	Torture	Life
18	750.86	Person	D	Assault with intent to	10
19				maim	
20	750.87	Person	D	Assault with intent to	10
21				commit a felony	
22	750.88	Person	C	Assault with intent to	15
23				commit unarmed robbery	
24	750.89	Person	A	Assault with intent to	Life
25				commit armed robbery	
26	750.90(1)	Person	C	Sexual contact under	20
27				pretext of medical	
28				treatment	

1	750.90 (2)	Person	B	Sexual penetration	25
2				under pretext of	
3				medical treatment	
4	750.90a	Person	A	Assault against a	Life
5				pregnant individual	
6				causing miscarriage,	
7				stillbirth, or death	
8				to embryo or fetus	
9				with intent or	
10				recklessness	
11	750.90b (a)	Person	C	Assault against a	15
12				pregnant individual	
13				resulting in	
14				miscarriage,	
15				stillbirth, or death	
16				to embryo or fetus	
17	750.90b (b)	Person	D	Assault against a	10
18				pregnant individual	
19				resulting in great	
20				bodily harm to embryo	
21				or fetus	
22	750.90c (a)	Person	C	Gross negligence	15
23				against a pregnant	
24				individual resulting	
25				in miscarriage,	
26				stillbirth, or death	
27				to embryo or fetus	

1	750.90c(b)	Person	E	Gross negligence	5
2				against a pregnant	
3				individual resulting	
4				in great bodily harm	
5				to embryo or fetus	
6	750.90d(a)	Person	C	Operating a vehicle	15
7				under the influence or	
8				while impaired causing	
9				miscarriage,	
10				stillbirth, or death	
11				to embryo or fetus	
12	750.90d(b)	Person	E	Operating a vehicle	5
13				under the influence or	
14				while impaired causing	
15				serious or aggravated	
16				injury to embryo or	
17				fetus	
18	750.90e	Person	G	Careless or reckless	2
19				driving causing	
20				miscarriage,	
21				stillbirth, or death	
22				to embryo or fetus	
23	750.90g(3)	Person	A	Performance of	Life
24				procedure on live	
25				infant with intent to	
26				cause death	

1 (b) House Bill No. 4949.