

HOUSE BILL NO. 4951

September 07, 2023, Introduced by Reps. Hope, Pohutsky, Koleszar, Brixie, Dievendorf, Morse, Price, Glanville, Rheingans, Arbit, Wilson, Tsernoglou, Steckloff, Liberati, Stone, Paiz, Mentzer, Byrnes, Breen, Skaggs, Wegela, Brabec, Haadsma, Hood, Hoskins, MacDonell, Conlin, Hill, Weiss and Morgan and referred to the Committee on Health Policy.

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:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAPTER II

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

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

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

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

(5) As used in this section:

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

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

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

1 subparagraph (i).

2 (iii) A violation of section 110a, 136b, 234a, 234b, 234c, 349b,
3 or 411h of the Michigan penal code, 1931 PA 328, MCL 750.110a,
4 750.136b, 750.234a, 750.234b, 750.234c, 750.349b, and 750.411h, or
5 any other violent felony.

6 (iv) A violation of a law of another state or of a political
7 subdivision of this state or of another state that substantially
8 corresponds to a violation described in subparagraph (i), (ii), or
9 (iii).

10 (b) "Domestic violence" means that term as defined in section
11 1 of 1978 PA 389, MCL 400.1501.

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

14 CHAPTER IV

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

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

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

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

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

29 (d) The prosecutor has requested a warrant.

1 (3) A summons must be in the same form as a warrant except
2 that it must summon the defendant to appear before a court at a
3 stated date and time. The summons must be served upon a defendant
4 by delivering a copy to ~~him or her~~ **the defendant** personally, by
5 leaving it at ~~his or her~~ **the defendant's** dwelling house or usual
6 place of abode with some person of suitable age and discretion
7 residing at that place, or by mailing it to the defendant's last
8 known address. If a defendant fails to appear in response to the
9 summons, a warrant may be issued.

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

12 (a) Factual allegations of the complainant contained in the
13 complaint.

14 (b) The complainant's sworn testimony.

15 (c) The complainant's affidavit.

16 (d) Any supplemental sworn testimony or affidavits of other
17 individuals presented by the complainant or required by the
18 magistrate.

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

25 (6) The magistrate shall not refuse to accept a complaint
26 alleging a violation of section 81 or 81a of the Michigan penal
27 code, 1931 PA 328, MCL 750.81 and 750.81a, or a violation of a
28 local ordinance substantially corresponding to section 81 of the
29 Michigan penal code, 1931 PA 328, MCL 750.81, by the spouse of the

1 victim, a former spouse of the victim, an individual with whom the
2 victim has had a child in common, an individual with whom the
3 victim has or has had a dating relationship, or an individual
4 residing or having resided in the same household as the victim on
5 grounds that the complaint is signed upon information and belief by
6 an individual other than the victim.

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

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

13 (9) As used in this section:

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

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

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

19 (iii) A violation of section 110a, 136b, 234a, 234b, 234c, 349b,
20 or 411h of the Michigan penal code, 1931 PA 328, MCL 750.110a,
21 750.136b, 750.234a, 750.234b, 750.234c, 750.349b, and 750.411h, or
22 any other violent felony.

23 (iv) A violation of a law of another state or of a political
24 subdivision of this state or of another state that substantially
25 corresponds to a violation described in subparagraph (i), (ii), or
26 (iii).

27 (b) "Dating relationship" means frequent, intimate
28 associations primarily characterized by the expectation of
29 affectional involvement. Dating relationship does not include a

1 casual relationship or an ordinary fraternization between 2
2 individuals in a business or social context.

3 (c) "Domestic violence" means that term as defined in section
4 1 of 1978 PA 389, MCL 400.1501.

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

7 (e) "Vulnerable adult" means that term as defined in section
8 145m of the Michigan penal code, 1931 PA 328, MCL 750.145m.

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

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

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

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

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

3 (c) Prosecution witnesses have been summoned and are present
4 for the proceeding.

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

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

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

11 (5) As used in this section:

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

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

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

17 (iii) A violation of section 110a, 136b, 234a, 234b, 234c, 349b,
18 or 411h of the Michigan penal code, 1931 PA 328, MCL 750.110a,
19 750.136b, 750.234a, 750.234b, 750.234c, 750.349b, and 750.411h, or
20 any other violent felony.

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

25 (b) "Domestic violence" means that term as defined in section
26 1 of 1978 PA 389, MCL 400.1501.

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

29

CHAPTER V

1 Sec. 6e. (1) Except in cases in which the person is alleged to
2 have committed an assaultive crime or an offense involving domestic
3 violence, a person who is detained on warrant of arrest in a county
4 other than the county from which the warrant originated must be
5 released from custody if the county from which the warrant
6 originated does not make arrangements within 48 hours from the time
7 the person was detained to pick the person up and does not in fact
8 pick the person up within 72 hours after the time ~~he or she~~ **the**
9 **person** was detained. If a person is released from custody under
10 this section, the releasing facility must contact the originating
11 court and obtain a court date for the defendant to appear.

12 (2) As used in this section:

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

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

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

18 (iii) A violation of section 110a, 136b, 234a, 234b, 234c, 349b,
19 or 411h of the Michigan penal code, 1931 PA 328, MCL 750.110a,
20 750.136b, 750.234a, 750.234b, 750.234c, 750.349b, and 750.411h, or
21 any other violent felony.

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

26 (b) "Domestic violence" means that term as defined in section
27 1 of 1978 PA 389, MCL 400.1501.

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

CHAPTER IX

1
2 Sec. 4a. (1) When an individual who has not been convicted
3 previously of an assaultive crime pleads guilty to, or is found
4 guilty of, a violation of section 81 or 81a of the Michigan penal
5 code, 1931 PA 328, MCL 750.81 and 750.81a, and the victim of the
6 assault is the offender's spouse or former spouse, an individual
7 who has had a child in common with the offender, an individual who
8 has or has had a dating relationship with the offender, or an
9 individual residing or having resided in the same household as the
10 offender, the court, without entering a judgment of guilt and with
11 the consent of the accused and of the prosecuting attorney in
12 consultation with the victim, may defer further proceedings and
13 place the accused on probation as provided in this section.

14 However, before deferring proceedings under this subsection, the
15 court shall contact the department of state police and determine
16 whether, according to the records of the department of state
17 police, the accused has previously been convicted of an assaultive
18 crime or has previously ~~availed himself or herself of had~~
19 **proceedings deferred under** this section. If the search of the
20 records reveals an arrest for an assaultive crime but no
21 disposition, the court shall contact the arresting agency and the
22 court that had jurisdiction over the violation to determine the
23 disposition of that arrest for purposes of this section.

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

27 (3) An order of probation entered under subsection (1) may
28 include any condition of probation authorized under section 3 of
29 chapter XI, including, but not limited to, requiring the accused to

1 participate in a mandatory counseling program. The court may order
2 the accused to pay the reasonable costs of the mandatory counseling
3 program. The court also may order the accused to participate in a
4 drug treatment court under chapter 10A of the revised judicature
5 act of 1961, 1961 PA 236, MCL 600.1060 to 600.1088. The court may
6 order the defendant to be imprisoned for not more than 12 months at
7 the time or intervals, which may be consecutive or nonconsecutive
8 and within the period of probation, as the court determines.
9 However, the period of imprisonment must not exceed the maximum
10 period of imprisonment authorized for the offense if the maximum
11 period is less than 12 months. The court may permit day parole as
12 authorized under 1962 PA 60, MCL 801.251 to 801.258. The court may
13 permit a work or school release from jail.

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

17 (a) The accused commits an assaultive crime during the period
18 of probation.

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

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

24 (5) Upon fulfillment of the terms and conditions, the court
25 shall discharge the person and dismiss the proceedings against the
26 person. Discharge and dismissal under this section must be without
27 adjudication of guilt and is not a conviction for purposes of this
28 section or for purposes of disqualifications or disabilities
29 imposed by law upon conviction of a crime, but it is a prior

1 conviction in a prosecution under sections 81(4) and (5) and 81a(3)
2 of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a.
3 There must be only 1 discharge and dismissal under this section
4 with respect to any individual.

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

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

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

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

26 (i) Showing that a defendant in a criminal action under section
27 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and
28 750.81a, or a local ordinance substantially corresponding to
29 section 81 of that act has already once ~~availed himself or herself~~

1 ~~of~~ **had proceedings deferred under** this section.

2 (ii) Determining whether the defendant in a criminal action is
3 eligible for discharge and dismissal of proceedings by a drug
4 treatment court under section 1076(5) of the revised judicature act
5 of 1961, 1961 PA 236, MCL 600.1076.

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

11 (8) As used in this section:

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

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

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

16 (iii) A violation of a law of another state or of a local
17 ordinance of a political subdivision of this state or of another
18 state substantially corresponding to a violation described in
19 subparagraph (i) or (ii).

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

25 CHAPTER XVII

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

28 M.C.L.	Category	Class Description	Stat Max
-----------	----------	-------------------	----------

1	333.2685	Person	E	Use of a live human	5
2				embryo, fetus, or	
3				neonate for	
4				nontherapeutic	
5				research	
6	333.2688	Person	E	Research on dead	5
7				embryo, fetus, or	
8				neonate without	
9				mother's consent	
10	333.2689	Person	E	Abortion to obtain	5
11				embryo or fetus	
12	333.2690 (1)	Person	E	Sale or delivery of	5
13				fetus, embryo, or	
14				neonate for certain	
15				purposes	
16	333.2690 (2)	Person	E	Financially benefiting	5
17				from granting certain	
18				persons access to an	
19				embryo, fetus, or	
20				neonate or from	
21				transferring	
22				possession of an	
23				embryo, fetus, or	
24				neonate to certain	
25				persons	
26	333.2813 (3)	Pub trst	F	Unauthorized	4
27				disclosure of social	
28				security number -	
29				subsequent offense	

1	333.2835(9)	Pub trst	G	Disclosing	3
2				confidential	
3				information — abortion	
4	333.2841(3)	Pub ord	E	Failure to inform law	5
5				enforcement or funeral	
6				home of discovery of	
7				dead body with purpose	
8				of concealing fact or	
9				cause of death	
10	333.5210(1)	Person	F	Person who has HIV	4
11				knowingly engaging in	
12				vaginal or anal	
13				intercourse with	
14				uninfected person	
15				without informing the	
16				person he or she has	
17				HIV with the intent to	
18				infect that person	
19				with HIV	

1	333.5210 (2)	Person	F	Person who has HIV	4
2				knowingly engaging in	
3				vaginal or anal	
4				intercourse with	
5				uninfected person	
6				without informing the	
7				person he or she has	
8				HIV with reckless	
9				disregard and	
10				resulting in the	
11				person contracting HIV	

12	333.5661	Person	F	Fraud resulting in	4
13				patient death	

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

16	M.C.L.	Category	Class	Description	Stat Max
17	750.81 (5)	Person	E	Domestic assault or	5
18				assault of a pregnant	
19				individual with prior	
20				convictions	
21	750.81a (3)	Person	E	Aggravated domestic	5
22				assault with prior	
23				convictions	
24	750.81d (1)	Person	G	Assaulting, resisting,	2
25				or obstructing certain	
26				persons	

1	750.81d(2)	Person	F	Assaulting, resisting,	4
2				or obstructing certain	
3				persons causing bodily	
4				injury requiring	
5				medical attention	
6	750.81d(3)	Person	C	Assaulting, resisting,	15
7				or obstructing certain	
8				persons causing	
9				serious impairment	
10	750.81d(4)	Person	B	Assaulting, resisting,	20
11				or obstructing certain	
12				persons causing death	
13	750.81e(2)	Person	G	Assault on utility	2
14				worker causing bodily	
15				injury requiring	
16				medical attention	
17	750.81e(3)	Person	E	Assault on utility	5
18				worker causing serious	
19				impairment of a body	
20				function	
21	750.82(1)	Person	F	Felonious assault	4
22	750.82(2)	Person	F	Felonious assault –	4
23				weapon-free school	
24				zone	
25	750.83	Person	A	Assault with intent to	Life
26				murder	
27	750.84(1)(a)	Person	D	Assault with intent to	10
28				do great bodily harm	
29				less than murder	

1	750.84 (1) (b)	Person	D	Assault by	10
2				strangulation or	
3				suffocation	
4	750.85	Person	A	Torture	Life
5	750.86	Person	D	Assault with intent to	10
6				maim	
7	750.87	Person	D	Assault with intent to	10
8				commit a felony	
9	750.88	Person	C	Assault with intent to	15
10				commit unarmed robbery	
11	750.89	Person	A	Assault with intent to	Life
12				commit armed robbery	
13	750.90 (1)	Person	C	Sexual contact under	20
14				pretext of medical	
15				treatment	
16	750.90 (2)	Person	B	Sexual penetration	25
17				under pretext of	
18				medical treatment	
19	750.90a	Person	A	Assault against a	Life
20				pregnant individual	
21				causing miscarriage,	
22				stillbirth, or death	
23				to embryo or fetus	
24				with intent or	
25				recklessness	

1	750.90b(a)	Person	C	Assault against a	15
2				pregnant individual	
3				resulting in	
4				miscarriage,	
5				stillbirth, or death	
6				to embryo or fetus	
7	750.90b(b)	Person	D	Assault against a	10
8				pregnant individual	
9				resulting in great	
10				bodily harm to embryo	
11				or fetus	
12	750.90c(a)	Person	C	Gross negligence	15
13				against a pregnant	
14				individual resulting	
15				in miscarriage,	
16				stillbirth, or death	
17				to embryo or fetus	
18	750.90c(b)	Person	E	Gross negligence	5
19				against a pregnant	
20				individual resulting	
21				in great bodily harm	
22				to embryo or fetus	
23	750.90d(a)	Person	C	Operating a vehicle	15
24				under the influence or	
25				while impaired causing	
26				miscarriage,	
27				stillbirth, or death	
28				to embryo or fetus	

1	750.90d(b)	Person	E	Operating a vehicle	5
2				under the influence or	
3				while impaired causing	
4				serious or aggravated	
5				injury to embryo or	
6				fetus	
7	750.90e	Person	G	Careless or reckless	2
8				driving causing	
9				miscarriage,	
10				stillbirth, or death	
11				to embryo or fetus	
12	750.90g(3)	Person	A	Performance of	Life
13				procedure on live	
14				infant with intent to	
15				cause death	
16	750.90h	Person	G	Performing or	2
17				assisting in	
18				performance of	
19				partial-birth abortion	
20	750.91	Person	A	Attempted murder	Life

21 Sec. 16p. This chapter applies to the following felonies
 22 enumerated in chapter 750 of the Michigan Compiled Laws:

23	M.C.L.	Category	Class	Description	Stat Max
24	750.317	Person	M2	Second degree murder	Life
25	750.317a	Person	A	Delivery of controlled	Life
26				substance causing	
27				death	
28	750.321	Person	C	Manslaughter	15

1	750.322	Person	C	Willful killing of	15
2				unborn quick child	
3	750.323	Person	C	Abortion resulting in	15
4				death	
5	750.327	Person	A	Death by explosives on	Life
6				vehicle or vessel	
7	750.328	Person	A	Death by explosives in	Life
8				or near building	
9	750.329	Person	C	Homicide – weapon	15
10				aimed with intent but	
11				not malice	
12	750.329a	Person	E	Assisting a suicide	5

13 Enacting section 1. This amendatory act does not take effect
14 unless Senate Bill No. ____ or House Bill No. 4950 (request no.
15 00312'23 a *) of the 102nd Legislature is enacted into law.