

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 735 (as introduced 10-17-01)
Sponsor: Senator Bill Bullard, Jr.
Committee: Judiciary

Date Completed: 10-30-01

CONTENT

The bill would amend the Code of Criminal Procedure to do both of the following:

- Restrict pretrial bond for a person arrested for violating a personal protection order (PPO) restraining or enjoining domestic violence or stalking activity, if the person had a previous conviction for aggravated stalking.**
- Include aggravated stalking in the definition of "assaultive crime" for purposes of a provision that restricts bail for a person convicted of an assaultive crime and awaiting sentence.**

Pretrial Bond

The Code allows a peace officer, without a warrant, to arrest and take into custody an individual when the officer has or receives positive information that another peace officer has reasonable cause to believe all of the following:

- A PPO restraining or enjoining domestic violence or stalking activity has been issued.
- The individual named in the PPO is violating or has violated the order.
- The PPO states on its face that a violation subjects the individual to immediate arrest and either criminal contempt of court and up to 93 days' imprisonment and/or a maximum fine of \$500, if the individual is 17 years of age or older, or juvenile dispositional alternatives, if the person is under 17.

An individual arrested without a warrant for a PPO violation must be brought to the family division of the circuit court within 24 hours to answer to a charge of contempt, at which time the court must set a time for a hearing on the alleged violation and set a reasonable bond pending a hearing. The bill specifies that, if the person arrested previously had been convicted of aggravated stalking, the court could not set bond unless it first found, by clear and convincing evidence, that the person posed no danger to others.

Postconviction Bail

The Code provides that a defendant convicted of an "assaultive crime" and awaiting sentence must be detained and may not be admitted to bail unless the trial court finds by clear and convincing evidence that he or she is not likely to pose a danger to other persons. As used in that provision, "assaultive crime" means any of the following:

- Assault with a dangerous weapon (MCL 750.82).
- Assault with intent to murder, do great bodily harm, maim, or commit another felony with no specified penalty (MCL 750.83, 750.84, 750.86, and 750.87).

- Unarmed and armed assault with intent to rob and steal (MCL 750.88 and 750.89).
- First-degree murder, second-degree murder, and manslaughter (MCL 750.316, 750.317, and 750.321).
- Kidnapping, a prisoner taking another person hostage, and enticing away a child under 14 (MCL 750.349, 750.349a, and 750.350).
- Mayhem (MCL 750.397).
- First-, second-, third-, or fourth-degree criminal sexual conduct and assault with intent to commit criminal sexual conduct (MCL 750.520b-750.520e and 750.520g).
- Armed robbery with aggravated assault (MCL 750.529).
- Carjacking (MCL 750.529a).
- Unarmed robbery (MCL 750.530).

The bill would add aggravated stalking to that list of assaultive crimes.

MCL 764.15b & 770.9a

Legislative Analyst: P. Affholter

FISCAL IMPACT

Senate Bill 735 would have no fiscal impact on the State.

To the extent that the bill increased the number of individuals being held without bond or bail by including previous convictions of aggravated stalking for the purposes of the Code's restriction, the bill would increase costs to local governments. A person waiting for a hearing or sentencing would be held in a local facility. Local units would incur the cost of incarceration, which may vary between \$27 and \$62 per day.

Fiscal Analyst: B. Wicksall