

# HOUSE BILL No. 5304

October 18, 2001, Introduced by Rep. Kooiman and referred to the Committee on Criminal Justice.

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 22 of chapter XVI (MCL 776.22), as amended by 1994 PA 418.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

CHAPTER XVI

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Sec. 22. (1) Each police agency in this state shall, by January 1, 1995, develop, adopt, and implement written policies for police officers responding to domestic violence calls. The policies shall reflect that domestic violence is criminal conduct.

(2) Each police agency shall consult with the prosecuting attorney and with an area shelter for victims of domestic violence in the development, implementation, including training, and evaluation of the policies and standards.

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1 (3) The policies shall address, but not be limited to  
2 addressing, all of the following:

3 (a) Procedures for conducting a criminal investigation with  
4 specific standards for misdemeanor and felony arrests.

5 (b) Procedures for making a criminal arrest. The procedures  
6 shall emphasize all of the following:

7 (i) In most circumstances, an officer should arrest and take  
8 an individual into custody if the officer has probable cause to  
9 believe the individual is committing or has committed domestic  
10 violence and his or her actions constitute a crime.

11 (ii) When the officer has probable cause to believe spouses,  
12 former spouses, individuals who have had a child in common, or  
13 other individuals who reside together or formerly resided  
14 together are committing or have committed crimes against each  
15 other, the officer, when determining whether to make an arrest of  
16 1 or both individuals, should consider the intent of this section  
17 to protect victims of domestic violence, the degree of injury  
18 inflicted on the individuals involved, the extent to which the  
19 individuals have been put in fear of physical injury to them-  
20 selves or other members of the household, and any history of  
21 domestic violence between the individuals, if that history can  
22 reasonably be ascertained by the officer. In addition, the offi-  
23 cer should not arrest an individual if the officer has reasonable  
24 cause to believe the individual was acting in lawful self-defense  
25 or in lawful defense of another individual.

26 (iii) A police officer's decision as to whether to arrest an  
27 individual should not be based solely on the consent of the

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1 victim to any subsequent prosecution or on the relationship of  
2 the individuals involved in the incident.

3 (iv) A police officer's decision not to arrest an individual  
4 should not be based solely upon the absence of visible indica-  
5 tions of injury or impairment.

6 (c) Procedures for denial of interim bond, as provided in  
7 ~~Act No. 44 of the Public Acts of 1961, being sections 780.581 to~~  
8 ~~780.588 of the Michigan Compiled Laws~~ 1961 PA 44, MCL 780.581 TO  
9 780.588.

10 (d) Procedures for verifying a personal protection order  
11 issued under section 2950 or 2950a of the revised judicature act  
12 of 1961, ~~Act No. 236 of the Public Acts of 1961, being sections~~  
13 ~~600.2950 and 600.2950a of the Michigan Compiled Laws~~ 1961 PA  
14 236, MCL 600.2950 AND 600.2950A.

15 (e) Procedures for making an arrest for a violation of a  
16 personal protection order.

17 (F) PROCEDURES FOR ENFORCING A VALID FOREIGN PROTECTION  
18 ORDER.

19 (G) ~~(f)~~ Procedures for providing or arranging for emer-  
20 gency assistance to victims including, but not limited to, medi-  
21 cal care, transportation to a shelter, or remaining at the scene  
22 of an alleged incident of domestic violence for a reasonable time  
23 until, in the reasonable judgment of the police officer, the  
24 likelihood of further imminent violence has been eliminated.

25 (H) ~~(g)~~ Procedures for informing the victim of community  
26 services and legal options that are available pursuant to section  
27 15c of chapter IV of this act.

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1 (I) ~~(h)~~ Procedures for preparing a written report, whether  
2 or not an arrest is made.

3 (J) ~~(i)~~ Training of peace officers, dispatchers, and  
4 supervisors.

5 (K) ~~(j)~~ Discipline for noncompliance with the policy.

6 (L) ~~(k)~~ Annual evaluations of the policy.

7 (4) The local policies developed, adopted, and implemented  
8 pursuant to this section shall be in writing and shall be avail-  
9 able to the public upon request.

10 (5) AS USED IN THIS SECTION:

11 (A) "FOREIGN PROTECTION ORDER" MEANS THAT TERM AS DEFINED IN  
12 SECTION [2950H] OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236,  
13 MCL [600.2950H].

14 (B) "VALID FOREIGN PROTECTION ORDER" MEANS A FOREIGN PROTEC-  
15 TION ORDER THAT SATISFIES THE CONDITIONS FOR VALIDITY PROVIDED IN  
16 SECTION [2950I] OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236,  
17 MCL [600.2950I].

[Enacting section 1. This amendatory act takes effect April 1,  
2002.]

18 Enacting section [2]. This amendatory act does not take  
19 effect unless all of the following bills of the 91st Legislature  
20 are enacted into law:

21 [(a) Senate Bill No. 729 or House Bill No. 5275.

22 (b) Senate Bill No. 751 or House Bill No. 5299.

23 (c) Senate Bill No. 752 or House Bill No. 5300.

24 (d) Senate Bill No. 753 or House Bill No. 5301.

25 (e) Senate Bill No. 754 or House Bill No. 5302.

26 (f) Senate Bill No. 755 or House Bill No. 5303.

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1 (g) Senate Bill No. 757 or House Bill No. 5305.

2 (h) Senate Bill No. 758 or House Bill No. 5306.

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