

**HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 735**

A bill to amend 1927 PA 175, entitled  
"The code of criminal procedure,"  
by amending sections 9c and 15a of chapter IV, sections 1f and 4a  
of chapter IX, and section 9a of chapter X (MCL 764.9c, 764.15a,  
769.1f, 769.4a, and 770.9a), section 9c of chapter IV as amended  
by 1999 PA 76, section 15a of chapter IV as amended by 1999 PA  
269, section 1f of chapter IX as amended by 2000 PA 372, section  
4a of chapter IX as amended by 1994 PA 68, and section 9a of  
chapter X as amended by 1994 PA 195.

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

**1**

**CHAPTER IV**

**2**

Sec. 9c. (1) Except as provided in subsection (3), if a

**3**

police officer has arrested a person without a warrant for a

**4**

misdemeanor or ordinance violation for which the maximum

**5**

permissible penalty does not exceed 93 days in jail or a fine, or

1 both, instead of taking the person before a magistrate and  
2 promptly filing a complaint as provided in section 13 of this  
3 chapter, the officer may issue to and serve upon the person an  
4 appearance ticket as defined in section 9f of this chapter and  
5 release the person from custody.

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

12       (3) An appearance ticket shall not be issued to any of the  
13 following:

14       (a) A person arrested for a violation of section 81 or 81a  
15 of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a,  
16 or a local ordinance substantially corresponding to section 81 of  
17 the Michigan penal code, 1931 PA 328, MCL 750.81, if the victim  
18 of the assault is the offender's spouse, former spouse, an indi-  
19 vidual who has had a child in common with the offender, AN INDI-  
20 VIDUAL WHO HAS OR HAS HAD A DATING RELATIONSHIP WITH THE  
21 OFFENDER, or an individual residing or having resided in the same  
22 household as the offender. AS USED IN THIS SUBDIVISION, "DATING  
23 RELATIONSHIP" MEANS FREQUENT, INTIMATE ASSOCIATIONS PRIMARILY  
24 CHARACTERIZED BY THE EXPECTATION OF AFFECTIONAL INVOLVEMENT.  
25 THIS TERM DOES NOT INCLUDE A CASUAL RELATIONSHIP OR AN ORDINARY  
26 FRATERNIZATION BETWEEN 2 INDIVIDUALS IN A BUSINESS OR SOCIAL  
27 CONTEXT.

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

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

7 Sec. 15a. A peace officer may arrest an individual for vio-  
8 lating section 81 or 81a of the Michigan penal code, 1931 PA 328,  
9 MCL 750.81 and 750.81a, or a local ordinance substantially corre-  
10 sponding to section 81 of that act regardless of whether the  
11 peace officer has a warrant or whether the violation was commit-  
12 ted in his or her presence if the peace officer has or receives  
13 positive information that another peace officer has reasonable  
14 cause to believe both of the following:

15 (a) The violation occurred or is occurring.

16 (b) The individual has had a child in common with the  
17 victim, resides or has resided in the same household as the  
18 victim, HAS OR HAS HAD A DATING RELATIONSHIP WITH THE VICTIM, or  
19 is a spouse or former spouse of the victim. AS USED IN THIS SUB-  
20 DIVISION, "DATING RELATIONSHIP" MEANS FREQUENT, INTIMATE ASSOCIA-  
21 TIONS PRIMARILY CHARACTERIZED BY THE EXPECTATION OF AFFECTIONAL  
22 INVOLVEMENT. THIS TERM DOES NOT INCLUDE A CASUAL RELATIONSHIP OR  
23 AN ORDINARY FRATERNIZATION BETWEEN 2 INDIVIDUALS IN A BUSINESS OR  
24 SOCIAL CONTEXT.

25 CHAPTER IX

26 Sec. 1f. (1) As part of the sentence for a conviction of  
27 any of the following offenses, in addition to any other penalty

1 authorized by law, the court may order the person convicted to  
2 reimburse the state or a local unit of government for expenses  
3 incurred in relation to that incident including but not limited  
4 to expenses for an emergency response and expenses for prosecut-  
5 ing the person, as provided in this section:

6       (a) A violation or attempted violation of section 625(1),  
7 (3), (4), (5), (6), or (7) or section 625m of the Michigan vehi-  
8 cle code, 1949 PA 300, MCL 257.625 and 257.625m, or of a local  
9 ordinance substantially corresponding to section 625(1), (3), or  
10 (6) or section 625m of the Michigan vehicle code, 1949 PA 300,  
11 MCL 257.625 and 257.625m.

12       (b) Felonious driving, negligent homicide, manslaughter, or  
13 murder, or attempted felonious driving, negligent homicide, man-  
14 slaughter, or murder, resulting from the operation of a motor  
15 vehicle, snowmobile, ORV, aircraft, vessel, or locomotive engine  
16 while the person was impaired by or under the influence of intox-  
17 icating liquor or a controlled substance, as defined in section  
18 7104 of the public health code, 1978 PA 368, MCL 333.7104, or a  
19 combination of intoxicating liquor and a controlled substance, or  
20 had an unlawful blood alcohol content.

21       (c) A violation or attempted violation of section 82127 of  
22 the natural resources and environmental protection act, 1994  
23 PA 451, MCL 324.82127.

24       (d) A violation or attempted violation of section 81134 or  
25 81135 of the natural resources and environmental protection act,  
26 1994 PA 451, MCL 324.81134 and 324.81135.

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1 (e) A violation or attempted violation of section 185 of the  
2 aeronautics code of the state of Michigan, 1945 PA 327,  
3 MCL 259.185.

4 (f) A violation or attempted violation of section 80176(1),  
5 (3), (4), or (5) of the natural resources and environmental pro-  
6 tection act, 1994 PA 451, MCL 324.80176, or a local ordinance  
7 substantially corresponding to section 80176(1) or (3) of the  
8 natural resources and environmental protection act, 1994 PA 451,  
9 MCL 324.80176.

10 (g) A violation or attempted violation of section 353 or 355  
11 of the railroad code of 1993, 1993 PA 354, MCL 462.353 and  
12 462.355.

13 (h) A violation or attempted violation of chapter XXXIII or  
14 section 327, 327a, 328, or 411a(2) of the Michigan penal code,  
15 1931 PA 328, MCL 750.200 to 750.212a, 750.327, 750.327a, 750.328,  
16 and 750.411a.

17 (I) A FINDING OF GUILT FOR CRIMINAL CONTEMPT FOR A VIOLATION  
18 OF A PERSONAL PROTECTION ORDER ISSUED UNDER SECTION 2950 OR 2950A  
19 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.2950  
20 AND 600.2950A, OR FOR A VIOLATION OF A FOREIGN PROTECTION ORDER  
21 THAT SATISFIES THE CONDITIONS FOR VALIDITY PROVIDED IN SECTION  
22 2950I OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236,  
23 MCL 600.2950I.

24 (2) The expenses for which reimbursement may be ordered  
25 under this section include all of the following:

26 (a) The salaries or wages, including overtime pay, of law  
27 enforcement personnel for time spent responding to the incident

1 from which the conviction arose, arresting the person convicted,  
2 processing the person after the arrest, preparing reports on the  
3 incident, investigating the incident, and collecting and analyz-  
4 ing evidence, including, but not limited to, determining bodily  
5 alcohol content and determining the presence of and identifying  
6 controlled substances in the blood, breath, or urine.

7       (b) The salaries, wages, or other compensation, including  
8 overtime pay, of fire department and emergency medical service  
9 personnel, including volunteer fire fighters or volunteer emer-  
10 gency medical service personnel, for time spent in responding to  
11 and providing fire fighting, rescue, and emergency medical serv-  
12 ices in relation to the incident from which the conviction  
13 arose.

14       (c) The cost of medical supplies lost or expended by fire  
15 department and emergency medical service personnel, including  
16 volunteer fire fighters or volunteer emergency medical service  
17 personnel, in providing services in relation to the incident from  
18 which the conviction arose.

19       (d) The salaries, wages, or other compensation, including,  
20 but not limited to, overtime pay of prosecution personnel for  
21 time spent investigating and prosecuting the crime or crimes  
22 resulting in conviction.

23       (3) If police, fire department, or emergency medical service  
24 personnel from more than 1 unit of government incurred expenses  
25 as described in subsection (2), the court may order the person  
26 convicted to reimburse each unit of government for the expenses  
27 it incurred.

1       (4) The amount ordered to be paid under this section shall  
2 be paid to the clerk of the court, who shall transmit the appro-  
3 priate amount to the unit or units of government named in the  
4 order to receive reimbursement. If not otherwise provided by the  
5 court under this subsection, the reimbursement ordered under this  
6 section shall be made immediately. However, the court may  
7 require that the person make the reimbursement ordered under this  
8 section within a specified period or in specified installments.

9       (5) If the person convicted is placed on probation or  
10 paroled, any reimbursement ordered under this section shall be a  
11 condition of that probation or parole. The court may revoke pro-  
12 bation and the parole board may revoke parole if the person fails  
13 to comply with the order and if the person has not made a good  
14 faith effort to comply with the order. In determining whether to  
15 revoke probation or parole, the court or parole board shall con-  
16 sider the person's employment status, earning ability, number of  
17 dependents, and financial resources, the willfulness of the  
18 person's failure to pay, and any other special circumstances that  
19 may have a bearing on the person's ability to pay.

20       (6) An order for reimbursement under this section may be  
21 enforced by the prosecuting attorney or the state or local unit  
22 of government named in the order to receive the reimbursement in  
23 the same manner as a judgment in a civil action.

24       (7) Notwithstanding any other provision of this section, a  
25 person shall not be imprisoned, jailed, or incarcerated for a  
26 violation of parole or probation, or otherwise, for failure to  
27 make a reimbursement as ordered under this section unless the

1 court determines that the person has the resources to pay the  
2 ordered reimbursement and has not made a good faith effort to do  
3 so.

4 (8) A local unit of government may elect to be reimbursed  
5 for expenses under this section or a local ordinance, or a combi-  
6 nation of this section and a local ordinance. This subsection  
7 does not allow a local unit of government to be fully reimbursed  
8 more than once for any expense incurred by that local unit of  
9 government.

10 (9) As used in this section:

11 (a) "Aircraft" means that term as defined in section 4 of  
12 the aeronautics code of the state of Michigan, 1945 PA 327,  
13 MCL 259.4.

14 (b) "Local unit of government" means any of the following:

15 (i) A city, village, township, or county.

16 (ii) A local or intermediate school district.

17 (iii) A public school academy.

18 (iv) A community college.

19 (c) "Motor vehicle" means that term as defined in section 33  
20 of the Michigan vehicle code, 1949 PA 300, MCL 257.33.

21 (d) "ORV" means that term as defined in section 81101 of the  
22 natural resources and environmental protection act, 1994 PA 451,  
23 MCL 324.81101.

24 (e) "Snowmobile" means that term as defined in section 82101  
25 of the natural resources and environmental protection act, 1994  
26 PA 451, MCL 324.82101.



1 (f) "State" includes a state institution of higher  
2 education.

3 (g) "Vessel" means that term as defined in section 80104 of  
4 the natural resources and environmental protection act, 1994  
5 PA 451, MCL 324.80104.

6 Sec. 4a. (1) When an individual who has not been convicted  
7 previously of a violation of section 81 or 81a of the Michigan  
8 penal code, ~~Act No. 328 of the Public Acts of 1931, as amended,~~  
9 ~~being sections 750.81 and 750.81a of the Michigan Compiled Laws~~  
10 1931 PA 328, MCL 750.81 AND 750.81A, or a violation of a local  
11 ordinance substantially corresponding to section 81 of ~~Act~~  
12 ~~No. 328 of the Public Acts of 1931~~ THAT ACT, pleads guilty to,  
13 or is found guilty of, a violation of section 81 or 81a of ~~Act~~  
14 ~~No. 328 of the Public Acts of 1931, as amended~~ THE MICHIGAN  
15 PENAL CODE, 1931 PA 328, MCL 750.81 AND 750.81A, and the victim  
16 of the assault is the offender's spouse or former spouse, an  
17 individual who has had a child in common with the offender, AN  
18 INDIVIDUAL WHO HAS OR HAS HAD A DATING RELATIONSHIP WITH THE  
19 OFFENDER, or an individual residing or having resided in the same  
20 household as the offender, the court, without entering a judgment  
21 of guilt and with the consent of the accused and of the prosecut-  
22 ing attorney in consultation with the victim, may defer further  
23 proceedings and place the accused on probation as provided in  
24 this section. However, before deferring proceedings under this  
25 subsection, the court shall contact the department of state  
26 police and determine whether, according to the records of the  
27 department of state police, the accused has previously been

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1 convicted under section 81 or 81a of ~~Act No. 328 of the Public~~  
2 ~~Acts of 1931~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.81  
3 AND 750.81A, or under a local ordinance substantially correspond-  
4 ing to section 81 of ~~Act No. 328 of the Public Acts of 1931~~  
5 THAT ACT, or has previously availed himself or herself of this  
6 section. If the search of the records reveals an arrest for a  
7 violation of section 81 or 81a of ~~Act No. 328 of the Public Acts~~  
8 ~~of 1931~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.81 AND  
9 750.81A, or a local ordinance substantially corresponding to  
10 section 81 of ~~Act No. 328 of the Public Acts of 1931~~ THAT ACT  
11 but no disposition, the court shall contact the arresting agency  
12 and the court that had jurisdiction over the violation to deter-  
13 mine the disposition of that arrest for purposes of this  
14 section. AS USED IN THIS SUBSECTION, "DATING RELATIONSHIP" MEANS  
15 FREQUENT, INTIMATE ASSOCIATIONS PRIMARILY CHARACTERIZED BY THE  
16 EXPECTATION OF AFFECTIONAL INVOLVEMENT. THIS TERM DOES NOT  
17 INCLUDE A CASUAL RELATIONSHIP OR AN ORDINARY FRATERNIZATION  
18 BETWEEN 2 INDIVIDUALS IN A BUSINESS OR SOCIAL CONTEXT.

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

22 (3) An order of probation entered under subsection (1) may  
23 require the accused to participate in a mandatory counseling  
24 program. The court may order the accused to pay the reasonable  
25 costs of the program.

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

4       (a) The accused commits an assaultive crime during the  
5 period of probation. As used in this subdivision, "assaultive  
6 crime" means 1 or more of the following:

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

8       (ii) A violation of chapter XI of the Michigan penal code,  
9 ~~Act No. 328 of the Public Acts of 1931, being sections 750.81 to~~  
10 ~~750.90 of the Michigan Compiled Laws~~ 1931 PA 328, MCL 750.81 TO  
11 750.90G.

12       (b) The accused violates an order of the court that he or  
13 she receive counseling regarding his or her violent behavior.

14       (c) The accused violates an order of the court that he or  
15 she have no contact with a named individual.

16       (5) Upon fulfillment of the terms and conditions, the court  
17 shall discharge the person and dismiss the proceedings against  
18 the person. Discharge and dismissal under this section shall be  
19 without adjudication of guilt and is not a conviction for pur-  
20 poses of this section or for purposes of disqualifications or  
21 disabilities imposed by law upon conviction of a crime.

22       (6) There may be only 1 discharge and dismissal under this  
23 section with respect to any individual. The department of state  
24 police shall retain a nonpublic record of an arrest and discharge  
25 or dismissal under this section. This record shall be furnished  
26 to a court or police agency upon request pursuant to  
27 subsection (1) for the purpose of showing that a defendant in a

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1 criminal action under section 81 or 81a of ~~Act No. 328 of the~~  
2 ~~Public Acts of 1931, as amended~~ THE MICHIGAN PENAL CODE, 1931 PA  
3 328, MCL 750.81 AND 750.81A, or a local ordinance substantially  
4 corresponding to section 81 of ~~Act No. 328 of the Public Acts of~~  
5 ~~1931~~ THAT ACT has already once availed himself or herself of  
6 this section.

7

CHAPTER X

8       Sec. 9a. (1) A defendant convicted of an assaultive crime  
9 and awaiting sentence shall be detained and shall not be admitted  
10 to bail unless the trial court finds by clear and convincing evi-  
11 dence that the defendant is not likely to pose a danger to other  
12 persons.

13       (2) A defendant convicted of an assaultive crime and sen-  
14 tenced to a term of imprisonment who has filed an appeal or an  
15 application for leave to appeal shall be detained and shall not  
16 be admitted to bail unless the trial court or the court to which  
17 the appeal is taken finds by clear and convincing evidence that  
18 both of the following exist:

19       (a) The defendant is not likely to pose a danger to other  
20 persons.

21       (b) The appeal or application raises a substantial question  
22 of law or fact.

23       (3) As used in this section, "assaultive crime" means an  
24 offense against a person described in section 82, 83, 84, 86, 87,  
25 88, 89, 316, 317, 321, 349, 349a, 350, 397, 411I, 520b, 520c,  
26 520d, 520e, 520g, 529, 529a, or 530 of ~~Act No. 328 of the Public~~  
27 ~~Acts of 1931, as amended, being sections~~ THE MICHIGAN PENAL

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1 CODE, 1931 PA 328, MCL 750.82, 750.83, 750.84, 750.86, 750.87,  
2 750.88, 750.89, 750.316, 750.317, 750.321, 750.349, 750.349a,  
3 750.350, 750.397, 750.411I, 750.520b, 750.520c, 750.520d,  
4 750.520e, 750.520g, 750.529, 750.529a, and 750.530. ~~of the~~  
5 ~~Michigan Compiled Laws.~~

6 (4) The appeal or application for leave to appeal filed by a  
7 person denied bail under this section shall be expedited pursuant  
8 to rules adopted for that purpose by the supreme court.

9 Enacting section 1. This amendatory act takes effect April  
10 1, 2002.