

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:

1 CHAPTER XVI

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

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

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

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 judiciary 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.

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 2950D OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236,
13 MCL 600.2950D.

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

18 Enacting section 1. 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. _____ or House Bill No. 5299 (request
22 no. 05225'01 a).

23 (b) Senate Bill No. _____ or House Bill No. 5300 (request
24 no. 05225'01 b).

25 (c) Senate Bill No. _____ or House Bill No. 5301 (request
26 no. 05225'01 c).

1 (d) Senate Bill No. _____ or House Bill No. 5302 (request
2 no. 05225'01 d).

3 (e) Senate Bill No. _____ or House Bill No. 5303 (request
4 no. 05225'01 e).

5 (f) Senate Bill No. _____ or House Bill No. 5305 (request
6 no. 05225'01 g).

7 (g) Senate Bill No. _____ or House Bill No. 5306 (request
8 no. 05225'01 h).