

HOUSE BILL NO. 5439

October 20, 2021, Introduced by Reps. Young, LaGrand, Steven Johnson, Brann, Hood, Sowerby, Rogers, Aiyash, Kuppa, Stone, Whitsett, Cavanagh and Yancey and referred to the Committee on Judiciary.

A bill to amend 1961 PA 44, entitled

"An act to provide for the release of misdemeanor prisoners by giving bond to the arresting officer in certain circumstances not inconsistent with public safety; and to repeal certain acts and parts of acts,"

by amending section 1 (MCL 780.581), as amended by 1990 PA 308.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) ~~If~~**Except in a case in which an appearance ticket**
2 **is issued under section 9c of chapter IV of the code of criminal**
3 **procedure, 1927 PA 175, MCL 764.9c, if a person is arrested without**

1 a warrant for a misdemeanor or a violation of a city, village, or
2 township ordinance, and the misdemeanor or violation is punishable
3 by imprisonment for not more than 1 year, or by a fine, or both,
4 the officer making the arrest shall take, without unnecessary
5 delay, the person arrested before the most convenient magistrate of
6 the county in which the offense was committed ~~to answer to the~~
7 ~~complaint.~~ **for an arraignment.**

8 (2) Except as otherwise provided in **this section or** section
9 2a, if a magistrate is not available or immediate trial cannot be
10 had, the person arrested **must be released on his or her own**
11 **recognizance. The recognizance bond may be executed with the**
12 **arresting officer or the direct supervisor of the arresting officer**
13 **or department, or with the sheriff or a deputy in charge of the**
14 **county jail if the person arrested is lodged in the county jail.**

15 (3) A person eligible for release as provided under subsection
16 (2) may be fingerprinted and processed at the jail before being
17 released on his or her own recognizance. However, the period of
18 detention allowed under this subsection must not be for any period
19 longer than the time necessary to complete fingerprinting and
20 processing, and may in no case exceed 3 hours.

21 (4) If the person is released on his or her own recognizance
22 under subsection (2), he or she must be given a written notice that
23 provides the time and place at which he or she must appear for an
24 arraignment.

25 (5) If the person arrested is charged with a serious
26 misdemeanor, except as otherwise provided in section 2a, he or she
27 may deposit with the arresting officer or the direct supervisor of
28 the arresting officer or department, or with the sheriff or a
29 deputy in charge of the county jail if the person arrested is

1 lodged in the county jail, an interim bond to guarantee his or her
2 appearance. The bond ~~shall~~**must** be a sum of money, as determined by
3 the officer who accepts the bond, not to exceed **50% of** the amount
4 of the maximum possible fine ~~but not less than 20% of the amount of~~
5 ~~the minimum possible fine~~ that may be imposed for the offense for
6 which the person was arrested. The person ~~shall~~**must** be given a
7 receipt as provided in section 3.

8 **(6)** ~~(3)~~—If, in the opinion of the arresting officer or
9 department, the arrested person is under the influence of
10 intoxicating liquor or a controlled substance, or a combination of
11 intoxicating liquor and a controlled substance, is wanted by police
12 authorities to answer to another charge, is unable to establish or
13 demonstrate his or her identity, or it is otherwise unsafe to
14 release him or her, the arrested person ~~shall~~**must** be held at the
15 place specified in subsection ~~(4)~~**(7)** until he or she is in a
16 proper condition to be released, or until the next session of
17 court.

18 **(7)** ~~(4)~~—For purposes of subsection ~~(3)~~**(6)**, if the person is
19 arrested in a political subdivision that has a holding cell,
20 holding center, or lockup, the person ~~shall~~**must** be held in that
21 holding cell, holding center, or lockup. However, if that holding
22 facility is at capacity then the person may be held in a holding
23 cell, holding center, or lockup willing to accept the ~~prisoner.~~
24 **person**. If the person is arrested in a political subdivision that
25 does not have a holding cell, holding center, or lockup, the person
26 ~~shall~~**must** be held in a holding cell, holding center, or lockup
27 willing to accept the ~~prisoner~~**person** or in the county jail. As
28 used in this subsection, "political subdivision" means a city,
29 village, or township.

1 (8) If a person is released under this section and appears in
2 court on the date and time of his or her arraignment, the court
3 shall presume the person is not at risk of nonappearance or
4 absconding when it sets bond or other conditions of release at
5 arraignment.

6 (9) As used in this section, "serious misdemeanor" means that
7 term as defined in section 61 of the William Van Regenmorter crime
8 victim's rights act, 1985 PA 87, MCL 780.811.

9 Enacting section 1. This amendatory act takes effect 90 days
10 after the date it is enacted into law.