



1 or district court magistrate releases a defendant ~~under this~~  
2 ~~subsection subject to protective conditions,~~ **subject to conditions**  
3 **in excess of the standard conditions listed in section 6 of this**  
4 **chapter, including, but not limited to, conditions reasonably**  
5 **necessary for the protection of 1 or more reasonably identifiable**  
6 **persons or the community at large,** the judge or district court  
7 magistrate shall make a finding of the need for ~~protective~~**the**  
8 conditions and inform the defendant on the record, either orally or  
9 by a writing that is personally delivered to the defendant, of the  
10 specific conditions imposed and that if the defendant violates a  
11 condition of release, ~~he or she~~ **the defendant** will be subject to  
12 arrest without a warrant and may have ~~his or her~~ bail forfeited or  
13 revoked and new conditions of release imposed, in addition to the  
14 penalty provided under section 3f of chapter XI and any other  
15 penalties that may be imposed if the defendant is found in contempt  
16 of court. **Before imposing a condition under this section, the court**  
17 **shall do both of the following:**

18 (a) Consider whether a referral to the relevant pretrial  
19 services agency to provide support and supervision would be  
20 sufficient to address any pretrial risks posed by the defendant,  
21 and, if sufficient, refer the defendant to the pretrial services  
22 agency.

23 (b) State on the record the reasoning for imposing each  
24 condition, including an explanation indicating the reason the  
25 condition is necessary and why it is the least restrictive means of  
26 addressing any risk posed by the defendant's release.

27 (2) If the court imposes a condition that constitutes a  
28 significant liberty restraint, the defendant may request a hearing  
29 to reevaluate the condition after being in compliance with the

1 condition for not less than 60 days.

2 (3) Upon request by the defendant under subsection (2), the  
3 court must conduct a hearing to reevaluate the condition that  
4 constitutes a significant liberty restraint.

5 (4) Unless 1 or more of the following circumstances apply,  
6 there is a rebuttable presumption that a significant liberty  
7 restraint must be discontinued if the defendant has demonstrated  
8 compliance with the significant liberty restraint for not less than  
9 60 days:

10 (a) The defendant is charged with an assaultive crime.

11 (b) The defendant is charged with a listed offense.

12 (c) The defendant is charged with an offense related to  
13 domestic violence.

14 (5) The prosecutor of the case may overcome the presumption  
15 under subsection (4) if the prosecutor shows the significant  
16 liberty restraint remains necessary by clear and convincing  
17 evidence, notwithstanding the defendant's compliance with it, to  
18 prevent the defendant from absconding or to address a risk of  
19 personal harm to another reasonably identifiable person or harm to  
20 the community at large.

21 (6) Nothing in subsection (2), (3), (4), or (5) prevents the  
22 court from reevaluating, amending, or discontinuing conditions at  
23 the court's discretion.

24 (7) ~~(2)~~—An order or amended order issued under subsection (1)  
25 ~~shall~~**must** contain all of the following:

26 (a) A statement of the defendant's full name.

27 (b) A statement of the defendant's height, weight, race, sex,  
28 date of birth, hair color, eye color, and any other identifying  
29 information the judge or district court magistrate considers

1 appropriate.

2 (c) A statement of the date the conditions become effective.

3 (d) A statement of the date on which the order will expire.

4 (e) A statement of the conditions imposed.

5 **(f) A statement of the necessity of each condition imposed.**

6 **(8)** ~~(3)~~—An order or amended order issued under this subsection  
7 and subsection (1) may impose a condition that the defendant not  
8 purchase or possess a firearm. However, if the court orders the  
9 defendant to carry or wear an electronic monitoring device as a  
10 condition of release as described in subsection ~~(6)~~, **(9)**, the court  
11 shall also impose a condition that the defendant not purchase or  
12 possess a firearm.

13 ~~(4) The judge or district court magistrate shall immediately~~  
14 ~~direct the issuing court or a law enforcement agency within the~~  
15 ~~jurisdiction of the court, in writing, to enter an order or amended~~  
16 ~~order issued under subsection (1) or subsections (1) and (3) into~~  
17 ~~LEIN. If the order or amended order is rescinded, the judge or~~  
18 ~~district court magistrate shall immediately order the issuing court~~  
19 ~~or law enforcement agency to remove the order or amended order from~~  
20 ~~LEIN.~~

21 ~~(5) The issuing court or a law enforcement agency within the~~  
22 ~~jurisdiction of the court shall immediately enter an order or~~  
23 ~~amended order into LEIN or shall remove the order or amended order~~  
24 ~~from the law enforcement information network upon expiration of the~~  
25 ~~order or as directed by the court under subsection (4).~~

26 **(9)** ~~(6) If a~~ **The court may order a defendant to wear an**  
27 **electronic monitoring device for the purpose of location monitoring**  
28 **only if both of the following circumstances apply:**

29 **(a) The** defendant ~~who~~ is charged with a crime involving

1 domestic violence, ~~or any other assaultive crime, is released under~~  
2 ~~this subsection and subsection (1), the judge or district court~~  
3 ~~magistrate may order the defendant to wear an electronic monitoring~~  
4 ~~device as a condition of release. or a listed offense.~~

5 **(b) The court finds by clear and convincing evidence that the**  
6 **defendant poses a risk of absconding or of personal harm to another**  
7 **reasonably identifiable person or harm to the community at large.**

8 **(10)** With the informed consent of the victim, the court may  
9 also order the defendant to provide the victim of the charged crime  
10 with an electronic receptor device capable of receiving the global  
11 positioning system information from the electronic monitoring  
12 device worn by the defendant that notifies the victim if the  
13 defendant is located within a proximity to the victim as determined  
14 by the judge or district court magistrate in consultation with the  
15 victim. The victim ~~shall~~**must** also be furnished with a telephone  
16 contact with the local law enforcement agency to request immediate  
17 assistance if the defendant is located within that proximity to the  
18 victim. In addition, the victim may provide the court with a list  
19 of areas from which ~~he or she~~**the victim** would like the defendant  
20 excluded. The court shall consider the victim's request and shall  
21 determine which areas the defendant ~~shall~~**must** be prohibited from  
22 accessing. The court shall instruct the entity monitoring the  
23 defendant's position to notify the proper authorities if the  
24 defendant violates the order. In determining whether to order a  
25 defendant to wear an electronic monitoring device **for the purpose**  
26 **of location monitoring,** the court shall consider the likelihood  
27 that the defendant's participation in electronic monitoring will  
28 deter the defendant from seeking to kill, physically injure, stalk,  
29 or otherwise threaten the victim ~~prior to~~**before** trial. The victim

1 may request the court to terminate the victim's participation in  
2 the monitoring of the defendant at any time. The court shall not  
3 impose sanctions on the victim for refusing to participate in  
4 monitoring under this subsection. ~~A defendant described in this~~  
5 ~~subsection shall only be released if he or she agrees to pay the~~  
6 ~~cost of the device and any monitoring as a condition of release or~~  
7 ~~to perform community service work in lieu of paying that cost.~~ An  
8 electronic monitoring device ordered to be worn under this  
9 subsection ~~shall~~ **must** provide reliable notification of removal or  
10 tampering. As used in this subsection, ÷

11 ~~(a) "Assaultive crime" means that term as defined in section~~  
12 ~~9a of chapter X.~~

13 ~~(b) "Domestic violence" means that term as defined in section~~  
14 ~~1 of 1978 PA 389, MCL 400.1501.~~

15 ~~(c) "Electronic monitoring device" includes any electronic~~  
16 ~~device or instrument that is used to track the location of an~~  
17 ~~individual or to monitor an individual's blood alcohol content, but~~  
18 ~~does not include any technology that is implanted or violates the~~  
19 ~~corporeal body of the individual.~~

20 ~~(d) "Informed~~ **informed** consent" means that the victim was  
21 given information concerning all of the following before consenting  
22 to participate in electronic monitoring:

23 **(a)** ~~(i)~~—The victim's right to refuse to participate in that  
24 monitoring and the process for requesting the court to terminate  
25 the victim's participation after it has been ordered.

26 **(b)** ~~(ii)~~—The manner in which the monitoring technology  
27 functions and the risks and limitations of that technology, and the  
28 extent to which the system will track and record the victim's  
29 location and movements.

1           (c) ~~(iii)~~—The boundaries imposed on the defendant during the  
2 monitoring program.

3           (d) ~~(iv)~~—Sanctions that the court may impose on the defendant  
4 for violating an order issued under this subsection.

5           (e) ~~(v)~~—The procedure that the victim is to follow if the  
6 defendant violates an order issued under this subsection or if  
7 monitoring equipment fails to operate properly.

8           (f) ~~(vi)~~—Identification of support services available to assist  
9 the victim to develop a safety plan to use if the court's order  
10 issued under this subsection is violated or if the monitoring  
11 equipment fails to operate properly.

12           (g) ~~(vii)~~—Identification of community services available to  
13 assist the victim in obtaining shelter, counseling, education,  
14 child care, legal representation, and other help in addressing the  
15 consequences and effects of domestic violence.

16           (h) ~~(viii)~~—The nonconfidential nature of the victim's  
17 communications with the court concerning electronic monitoring and  
18 the restrictions to be imposed upon the defendant's movements.

19           **(11) If an order in excess of the standard conditions of**  
20 **release listed in section 6 of this chapter includes a no-contact**  
21 **order, electronic monitoring imposed under subsection (9), or**  
22 **another condition required for the protection of 1 or more named**  
23 **persons, the judge or district court magistrate shall immediately**  
24 **direct the issuing court or a law enforcement agency within the**  
25 **jurisdiction of the court, in writing, to enter such an order or**  
26 **amended order into LEIN. The entry into LEIN required under this**  
27 **subsection must include the statement of the conditions imposed**  
28 **under the order. If the order or amended order is rescinded, the**  
29 **judge or district court magistrate must immediately order the**

1 issuing court or law enforcement agency to remove the order or  
2 amended order from LEIN.

3 (12) The issuing court or a law enforcement agency within the  
4 jurisdiction of the court must immediately enter an order or  
5 amended order into LEIN or must remove the order or amended order  
6 from LEIN upon expiration of the order or as directed by the court  
7 under subsection (11).

8 (13) ~~(7)~~—A judge or district court magistrate may release  
9 under this subsection a defendant subject to conditions reasonably  
10 necessary for the protection of the public if the defendant has  
11 submitted to a preliminary roadside analysis that detects the  
12 presence of alcoholic liquor, a controlled substance, or other  
13 intoxicating substance, or any combination of them, and that a  
14 subsequent chemical test is pending. The judge or district court  
15 magistrate shall inform the defendant on the record, either orally  
16 or by a writing that is personally delivered to the defendant, of  
17 all of the following:

18 (a) That if the defendant is released under this subsection,  
19 ~~he or she~~ **the defendant** shall not operate a motor vehicle under the  
20 influence of alcoholic liquor, a controlled substance, or another  
21 intoxicating substance, or any combination of them, as a condition  
22 of release.

23 (b) That if the defendant violates the condition of release  
24 under subdivision (a), ~~he or she~~ **the defendant** will be subject to  
25 arrest without a warrant, shall have ~~his or her~~ bail forfeited or  
26 revoked, and shall not be released from custody prior to  
27 arraignment.

28 (14) ~~(8)~~—The judge or district court magistrate shall  
29 immediately direct the issuing court or a law enforcement agency

1 within the jurisdiction of the court, in writing, to enter an order  
 2 or amended order issued under subsection ~~(7)~~ **(13)** into LEIN. If the  
 3 order or amended order is rescinded, the judge or district court  
 4 magistrate shall immediately order the issuing court or law  
 5 enforcement agency to remove the order or amended order from LEIN.

6 **(15)** ~~(9)~~ The issuing court or a law enforcement agency within  
 7 the jurisdiction of the court shall immediately enter an order or  
 8 amended order into LEIN. If the order or amended order is  
 9 rescinded, the court or law enforcement agency shall immediately  
 10 remove the order or amended order from LEIN upon expiration of the  
 11 order under subsection ~~(8)~~ **(13)**.

12 **(16)** ~~(10)~~ ~~This~~ **Except for the limitations on the use of**  
 13 **significant liberty restraints, this** section does not limit the  
 14 authority of judges or district court magistrates to impose  
 15 protective or other release conditions under other applicable  
 16 statutes or court rules. ~~, including ordering a defendant to wear~~  
 17 ~~an electronic monitoring device.~~

18 **(17)** ~~(11)~~ As used in this section: ~~7~~

19 **(a) "Assaultive crime" includes any of the following:**

20 **(i) A violation described in section 9a of chapter X.**

21 **(ii) A violation of chapter XI of the Michigan penal code, 1931**  
 22 **PA 328, MCL 750.81 to 750.90h, not otherwise included in**  
 23 **subparagraph (i).**

24 **(iii) A violation of section 110a, 136b, 234a, 234b, 234c, 349b,**  
 25 **or 411h of the Michigan penal code, 1931 PA 328, MCL 750.110a,**  
 26 **750.136b, 750.234a, 750.234b, 750.234c, 750.349b, and 750.411h, or**  
 27 **any other felony which involves a violent act or threat of a**  
 28 **violent act against any other person.**

29 **(b) "Clear and convincing" means that the evidence is highly**

1 and substantially more likely to be true than untrue. This standard  
2 of proof requires that the fact finder must be convinced that the  
3 contention is highly probable. Clear and convincing evidence may be  
4 established by any of the following:

5 (i) Established past conduct.

6 (ii) Testimony, including hearsay testimony, from a reliable  
7 witness.

8 (iii) Review of police reports, witness statements, criminal  
9 history information, or any other documentation in court records.

10 (c) "Domestic violence" means that term as defined in section  
11 1 of 1978 PA 389, MCL 400.1501.

12 (d) "Electronic monitoring device" includes any electronic  
13 device or instrument that is used to monitor the location of a  
14 person or to monitor or detect a person's blood alcohol content. A  
15 condition of release must not include any technology that is  
16 implanted or violates the corporeal body of the person.

17 (e) "Harm to the community at large" means that clear and  
18 convincing evidence demonstrates that the defendant's conduct would  
19 likely result in personal harm to another person, even if that  
20 person cannot be specifically identified.

21 (f) "LEIN" means the law enforcement information network  
22 regulated under the C.J.I.S. policy council act, 1974 PA 163, MCL  
23 28.211 to 28.215, or by the department of state police.

24 (g) "Listed offense" means that term as defined in section 2  
25 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

26 (h) "No-contact order" means an order of the court requiring a  
27 defendant to stay away from or have no contact with a specific  
28 person or location.

29 (i) "Personal harm" means bodily injury or emotional distress,

1 as defined in section 411h of the Michigan penal code, 1931 PA 328,  
2 MCL 750.411h, that can be specifically articulated on the record.

3 (j) "Significant liberty restraint" means any condition that  
4 requires drug or alcohol testing, electronic monitoring, or in-  
5 person reporting outside of regularly scheduled court events.  
6 Significant liberty restraint does not include a no-contact order.

7 Sec. 6f. (1) If, as the result of a pretrial release decision,  
8 a defendant remains incarcerated 48 hours after the pretrial  
9 release decision is made, defense counsel or the prosecuting  
10 attorney may petition the court to conduct a due process hearing  
11 within 48 hours of the petition as provided in this section. The  
12 standard of review at a hearing conducted under this section must  
13 be de novo.

14 (2) All of the following apply to a due process hearing under  
15 this section:

16 (a) If available, the judge who is assigned to preside over  
17 the case after arraignment shall preside over the due process  
18 hearing.

19 (b) The scope of the hearing must be limited to the pretrial  
20 release decision, including any monetary or nonmonetary conditions  
21 of release.

22 (c) The defendant has a right to be represented by counsel,  
23 review evidence the prosecutor may introduce before the hearing,  
24 present evidence, and proffer information.

25 (d) The defendant has a right to present and cross-examine  
26 witnesses, except the defendant may not call adversarial witnesses,  
27 including, but not limited to, any victim or victims in the case.

28 (e) The rules of evidence of this state do not apply.

29 (f) Statements made at the hearing by the defendant are not

1 admissible for the purpose of proving the defendant's guilt in a  
2 subsequent proceeding but may be admissible for impeachment  
3 purposes.

4 (3) The court shall not issue an order for pretrial detention  
5 or continue a condition of release that results in detention of the  
6 defendant before trial at the due process hearing unless the court  
7 finds on the record by clear and convincing evidence that the  
8 defendant poses a risk of absconding or causing personal harm to  
9 another reasonably identifiable person or the community at large  
10 and that no less restrictive conditions can reasonably address the  
11 risk.

12 (4) As used in this section:

13 (a) "Clear and convincing" means that the evidence is highly  
14 and substantially more likely to be true than untrue. This standard  
15 of proof requires that the fact finder must be convinced that the  
16 contention is highly probable. Clear and convincing evidence may be  
17 established by any of the following:

18 (i) Established past conduct.

19 (ii) Testimony, including hearsay testimony, from a reliable  
20 witness.

21 (iii) Review of police reports, witness statements, criminal  
22 history information, or any other documentation in court records.

23 (b) "Harm to the community at large" means that clear and  
24 convincing evidence demonstrates that the defendant's conduct would  
25 likely result in personal harm to another person, even if that  
26 person cannot be specifically identified.

27 (c) "Personal harm" means bodily injury or emotional distress  
28 as defined in section 411h of the Michigan penal code, 1931 PA 328,  
29 MCL 750.411h, that can be specifically articulated on the record.

1           Enacting section 1. This amendatory act takes effect January  
2 1, 2025.

3           Enacting section 2. This amendatory act does not take effect  
4 unless Senate Bill No.\_\_\_\_ or House Bill No. 4655 (request no.  
5 00502'23) of the 102nd Legislature is enacted into law.