RELEASE OF MISDEMEANOR PRISONERS

Act 44 of 1961

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.

History: 1961, Act 44, Imd. Eff. May 20, 1961

The People of the State of Michigan enact:

780.581 Taking person arrested without warrant for misdemeanor or violation of ordinance before magistrate; bond; receipt; holding certain arrested persons in holding cell, holding center, lockup, or county jail; "political subdivision" defined.

Sec. 1.

(1) If a person is arrested without a warrant for a misdemeanor or a violation of a city, village, or township ordinance, and the misdemeanor or violation is punishable by imprisonment for not more than 1 year, or by a fine, or both, the officer making the arrest shall take, without unnecessary delay, the person arrested before the most convenient magistrate of the county in which the offense was committed to answer to the complaint.

(2) Except as otherwise provided in section 2a, if a magistrate is not available or immediate trial cannot be had, the person arrested may deposit with the arresting officer or the direct supervisor of the arresting officer or department, or with the sheriff or a deputy in charge of the county jail if the person arrested is lodged in the county jail, an interim bond to guarantee his or her appearance. The bond shall be a sum of money, as determined by the officer who accepts the bond, not to exceed the amount of the maximum possible fine but not less than 20% of the amount of the minimum possible fine that may be imposed for the offense for which the person was arrested. The person shall be given a receipt as provided in section 3.

(3) If, in the opinion of the arresting officer or department, the arrested person is under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, is wanted by police authorities to answer to another charge, is unable to establish or demonstrate his or her identity, or it is otherwise unsafe to release him or her, the arrested person shall be held at the place specified in subsection (4) until he or she is in a proper condition to be released, or until the next session of court.

(4) For purposes of subsection (3), if the person is arrested in a political subdivision that has a holding cell, holding center, or lockup, the person shall be held in that holding cell, holding center, or lockup. However, if that holding facility is at capacity then the person may be held in a holding cell, holding center, or lockup willing to accept the prisoner. If the person is arrested in a political subdivision that does not have a holding cell, holding center, or lockup, the person shall be held in a holding cell, holding center, or lockup willing to accept the prisoner or in the county jail. As used in this subsection, "political subdivision" means a city, village, or township.

History: 1961, Act 44, Imd. Eff. May 20, 1961 ;-- Am. 1970, Act 157, Eff. Apr. 1, 1971 ;-- Am. 1983, Act 61, Eff. Mar. 29, 1984 ;-- Am. 1985, Act 149, Imd. Eff. Nov. 12, 1985 ;-- Am. 1990, Act 308, Eff. Mar. 28, 1991

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780.582 Arrest with warrant for misdemeanor or violation of ordinance; penalty; interim bond.

Sec. 2.

Except as otherwise provided in section 2a, if a person is arrested with a warrant for a misdemeanor or a violation of a city, village, or township ordinance, and the misdemeanor or violation is punishable by imprisonment for not more than 1 year or by a fine, or both, the provisions of section 1 shall apply, except that the interim bond shall be directed to the magistrate who has signed the warrant, or to any judge authorized to act in his or her stead.

History: 1961, Act 44, Imd. Eff. May 20, 1961 ;-- Am. 1970, Act 157, Eff. Apr. 1, 1971 ;-- Am. 1990, Act 308, Eff. Mar. 28, 1991

780.582a Holding period; protective or release conditions.

Sec. 2a.

(1) A person shall not be released on an interim bond as provided in section 1 or on his or her own recognizance as provided in section 3a, but shall be held until he or she can be arraigned or have interim bond set by a judge or district court magistrate if either of the following applies:

(a) The person is arrested without a warrant under section 15a of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.15a, or a local ordinance substantially corresponding to that section.

(b) The person is arrested with a warrant for a violation of section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, or a local ordinance substantially corresponding to section 81 of that act and the person is a spouse or former spouse of the victim of the violation, has or has had a dating relationship with the victim of the violation, has had a child in common with the victim of the violation, or is a person who resides or has resided in the same household as the victim of the violation. As used in this subdivision, "dating relationship" means that term as defined in section 2950 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950.

(2) If a judge or district court magistrate sets interim bond under this section, the judge or magistrate shall consider and may impose the condition that the person released shall not have or attempt to have contact of any kind with the victim.

(3) If a judge or district court magistrate releases under this section a person subject to protective conditions, the judge or district court magistrate shall inform the person on the record, either orally or by a writing that is personally delivered to the person, of the specific conditions imposed and that if the person violates a condition of release, he or she will be subject to arrest without a warrant and may have his or her bond forfeited or revoked and new conditions of release imposed, in addition to any other penalties that may be imposed if he or she is found in contempt of court.

(4) An order or amended order issued under subsection (3) shall contain all of the following:

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

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

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

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

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(e) A statement of the conditions imposed, including, but not limited to, the condition prescribed in subsection (3).

(5) The judge or district court magistrate shall immediately direct a law enforcement agency within the jurisdiction of the court, in writing, to enter an order or amended order issued under subsection (3) into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216. If the order or amended order is rescinded, the judge or district court magistrate shall immediately order the law enforcement agency to remove the order or amended order from the law enforcement information network.

(6) A law enforcement agency within the jurisdiction of the court shall immediately enter an order or amended order into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216, or shall remove the order or amended order from the law enforcement information network upon expiration of the order or as directed by the court under subsection (5).

(7) This section does not limit the authority of judges or district court magistrates to impose protective or other release conditions under other applicable statutes or court rules.

History: Add. 1990, Act 308, Eff. Mar. 28, 1991 ;-- Am. 2001, Act 198, Eff. Apr. 1, 2002

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780.583 Deposit of interim bond; form of receipt; forfeiture; waiver; order; warrant.

Sec. 3.

(1) If an arrested person deposits an interim bond pursuant to section 1, the officer accepting the bond shall give a receipt to the person for the money deposited with him or her on a form as follows:

Date

Received from the sum of

Dollars as cash bail to assure the appearance of

before District Court Judge (or Municipal Judge) for , at

on the day of , 19 ,

to answer to a charge of .

If the accused fails to appear at the time and place specified above and to submit to the jurisdiction of the court and stand to and abide by any order of the court, the sum specified above shall be forfeited to the state or the arresting political subdivision.

By depositing this money and accepting this receipt the accused waives any claim to the money following forfeiture.

Officer Dept.

(2) If the accused fails to appear as required in the interim bond receipt, the court shall order the bond forfeited as in cases of default in bail. In addition, the court may issue a warrant upon a signed complaint for the arrest of the accused or a bench warrant for the further appearance of the accused.

History: 1961, Act 44, Imd. Eff. May 20, 1961 ;-- Am. 1970, Act 157, Eff. Apr. 1, 1971 ;-- Am. 1990, Act 308, Eff. Mar. 28, 1991

780.583a Release on own recognizance; interim bond receipt.

Sec. 3a.

Except as otherwise provided in section 2a, if an arrest is made on a misdemeanor warrant from another county, the arresting officer may release the arrested person on his or her own recognizance. An interim bond receipt as provided in section 3 shall be executed. On the face of the receipt shall be written "released on own recognizance".

History: Add. 1970, Act 157, Eff. Apr. 1, 1971 ;-- Am. 1990, Act 308, Eff. Mar. 28, 1991

780.584 Officer taking deposit; report; embezzlement.

Sec. 4.

Every officer taking a deposit under this act within 48 hours thereafter or at the next session of court shall deposit the same with the magistrate named in the receipt form, together with the facts relating to such arrest, and failure to make such report and deposit such money shall be deemed embezzlement of public money.

History: 1961, Act 44, Imd. Eff. May 20, 1961

780.585 Magistrate; change of bond amounts.

Sec. 5.

In cases arising under section 2 of this act, the magistrate issuing the warrant may endorse on the back thereof a greater or a lesser amount for an interim bond.

History: 1961, Act 44, Imd. Eff. May 20, 1961 ;-- Am. 1970, Act 157, Eff. Apr. 1, 1971

780.586 Interim bond; purpose; change of amount on arraignment.

Sec. 6.

Cash bonds accepted under this act shall be known as interim bonds, and shall be for the purpose of securing the defendant's arraignment in court, at which time said court may continue said bond for further proceedings, or may require a property bond or a cash bond in a greater or lesser amount.

History: 1961, Act 44, Imd. Eff. May 20, 1961 ;-- Am. 1970, Act 157, Eff. Apr. 1, 1971

780.587 Traffic offenses not affected.

Sec. 7.

The provisions of this act shall not affect section 728 of Act No. 300 of the Public Acts of 1949, as amended, being section 257.728 of the Compiled Laws of 1948.

History: 1961, Act 44, Imd. Eff. May 20, 1961 ;-- Am. 1970, Act 157, Eff. Apr. 1, 1971

780.588 Repeal.

Sec. 8.

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Section 13 of chapter 4 of Act No. 175 of the Public Acts of 1927, as amended, being section 764.13 of the Compiled Laws of 1948, is hereby repealed.

History: 1961, Act 44, Imd. Eff. May 20, 1961

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