



# HOUSE BILL No. 5794

April 23, 1996, Introduced by Reps. Fitzgerald, Bankes, Hill, Ryan, Bullard, Pitoniak, Bush and Perricone and referred to the Committee on Judiciary and Civil Rights.

A bill to amend sections 15f and 27 of chapter IV of Act No. 175 of the Public Acts of 1927, entitled as amended "The code of criminal procedure," section 15f as added by Act No. 113 of the Public Acts of 1993 and section 27 as amended by Act No. 67 of the Public Acts of 1988, being sections 764.15f and 764.27 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 15f and 27 of chapter IV of Act No. 175  
2 of the Public Acts of 1927, section 15f as added by Act No. 113  
3 of the Public Acts of 1993 and section 27 as amended by Act  
4 No. 67 of the Public Acts of 1988, being sections 764.15f and  
5 764.27 of the Michigan Compiled Laws, are amended to read as  
6 follows:

## CHAPTER IV

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Sec. 15f. (1) A peace officer, without a warrant, may arrest and take into custody ~~a person~~ AN INDIVIDUAL if the peace officer has reasonable cause to believe all of the following exist:

(a) The probate court has issued an order ~~pursuant to~~ UNDER section ~~+3a(4)~~ 13A(3) of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.13a of the Michigan Compiled Laws, stating on its face the period of time for which the order is valid.

(b) A true copy of the order and proof of service has been filed with the law enforcement agency having jurisdiction of the area in which the ~~person~~ INDIVIDUAL having custody of the child ~~pursuant to~~ UNDER section ~~+3a(4)~~ 13A(3) of chapter XIIA of Act No. 288 of the Public Acts of 1939 resides.

(c) The ~~person~~ INDIVIDUAL named in the order has received notice of the order.

(d) The ~~person~~ INDIVIDUAL named in the order is acting in violation of the order.

(e) The order states on its face that a violation of its terms subjects the ~~person~~ INDIVIDUAL to criminal contempt of court and, if found guilty, the ~~person shall~~ INDIVIDUAL MAY be imprisoned for not more than 90 days and may be fined not more than \$500.00.

(2) If a peace officer arrests ~~a person pursuant to~~ AN INDIVIDUAL UNDER this section, the peace officer shall do all of the following:

1 (a) Prepare a complaint of violation of the order  
2 substantially in the following format:

3 COMPLAINT OF VIOLATION OF CHILD PROTECTIVE ORDER

4 I \_\_\_\_\_ am a peace officer. I have determined by:  
5 (name)

6 \_\_\_\_\_ L.E.I.N. and verification with the police agency holding  
7 the order

8 \_\_\_\_\_ Certified or true copy of THE order

9 \_\_\_\_\_ Other (Describe) \_\_\_\_\_

10 That \_\_\_\_\_ Probate court ordered \_\_\_\_\_  
11 (county) (name)

12 NOT TO ENTER THE FOLLOWING PREMISES:

13 I have reasonable cause to believe that on \_\_\_\_\_  
14 (date)

15 at \_\_\_\_\_ the ~~person~~ INDIVIDUAL subject to the order violated  
16 (time)

1 the order as follows:

2 (state violations)

3

4

\_\_\_\_\_  
(Signature of officer)

5

6

\_\_\_\_\_  
(Date)

7 (b) Provide 1 copy of the complaint to the ~~person~~  
8 INDIVIDUAL subject to the order and the original and 1 copy to  
9 the court that imposed the conditions. The law enforcement  
10 agency shall retain 1 copy of the complaint.

11 (3) ~~A person~~ AN INDIVIDUAL arrested ~~pursuant to~~ UNDER  
12 this section shall be brought before the probate court having  
13 jurisdiction in the cause within 24 hours after arrest to answer  
14 to a charge of contempt for violation of the order, at which time  
15 the court shall do each of the following:

16 (a) Set a time certain for a hearing on the alleged viola-  
17 tion of the order. The hearing shall be conducted within 72  
18 hours after arrest, unless extended by the court on the motion of  
19 the arrested ~~person~~ INDIVIDUAL.

20 (b) Set a reasonable bond pending a hearing of the alleged  
21 violation of the order.

1 (c) Notify the ~~person~~ INDIVIDUAL having custody of the  
2 child ~~pursuant to~~ UNDER section ~~+3a(4)~~ 13A(3) of chapter XIIIA  
3 of Act No. 288 of the Public Acts of 1939 and direct that  
4 ~~person~~ INDIVIDUAL to appear at the hearing and give evidence on  
5 the charge of contempt.

6 (4) For purposes of this section, a probate judge may  
7 arraign, take a plea, or sentence the ~~person~~ INDIVIDUAL for  
8 criminal contempt in the same manner that the circuit court may  
9 arraign, take a plea, or sentence ~~a person~~ AN INDIVIDUAL in  
10 other criminal cases.

11 (5) If the probate judge is not present or available within  
12 24 hours after arrest, ~~a person~~ AN INDIVIDUAL arrested  
13 ~~pursuant to~~ UNDER this section shall be taken before the dis-  
14 trict court within 24 hours after arrest, at which time the dis-  
15 trict court shall order the defendant to appear before the pro-  
16 bate court that entered the order for a hearing on the charge.  
17 The district court shall set bond for the ~~person~~ INDIVIDUAL.

18 (6) Upon receipt of a true copy of an order and proof of  
19 service ~~pursuant to~~ UNDER this section, the law enforcement  
20 agency shall enter the order into the law enforcement information  
21 network as provided by the L.E.I.N. policy council act of 1974,  
22 Act No. 163 of the Public Acts of 1974, being sections 28.211 to  
23 28.216 of the Michigan Compiled Laws.

24 (7) If an order entered ~~pursuant to~~ UNDER section ~~+3a(4)~~  
25 13A(3) of chapter XIIIA of Act No. 288 of the Public Acts of 1939  
26 is rescinded, the court shall immediately order the law

1 enforcement agency to remove the order from the law enforcement  
2 information network.

3       Sec. 27. Except as otherwise provided in section 606 of the  
4 revised judicature act of 1961, Act No. 236 of the Public Acts of  
5 1961, being section 600.606 of the Michigan Compiled Laws, or  
6 section 10a(1)(c) of Act No. 369 of the Public Acts of 1919,  
7 being section 725.10a of the Michigan Compiled Laws, if a child  
8 under 17 years of age is arrested, with or without a warrant, the  
9 child shall be taken immediately before the juvenile division of  
10 the probate court of the county where the offense is alleged to  
11 have been committed. ~~and the~~ THE officer making the arrest  
12 shall immediately make and file, or cause to be made and filed, a  
13 petition against the child as provided in chapter XIIA of Act  
14 No. 288 of the Public Acts of 1939, ~~as amended,~~ being sections  
15 712A.1 to ~~712A.28~~ 712A.31 of the Michigan Compiled Laws.  
16 Except as otherwise provided in section 606 of Act No. 236 of the  
17 Public Acts of 1961 ~~, being section 600.606 of the Michigan~~  
18 ~~Compiled Laws,~~ or section 10a(1)(c) of Act No. 369 of the Public  
19 Acts of 1919, ~~being section 725.10a of the Michigan Compiled~~  
20 ~~Laws,~~ if during the pendency of a criminal case against a child  
21 in a court in this state it is ascertained that the child is  
22 under 17 years of age, the court shall immediately transfer the  
23 case, together with all papers connected with the case, to the  
24 juvenile division of the probate court of the county where the  
25 offense is alleged to have been committed. If a child 15 years  
26 of age or older is charged with a felony, the judge of probate,  
27 after investigation and examination and upon motion of the

1 prosecuting attorney, may waive jurisdiction under section 4 of  
2 chapter XIIA of Act No. 288 of the Public Acts of 1939, being  
3 section 712A.4 of the Michigan Compiled Laws. If jurisdiction is  
4 waived, it shall be lawful to try the child in the court having  
5 general criminal jurisdiction of the offense. If during the pen-  
6 dency of a criminal case against a child in a court of record  
7 other than a probate court it is determined that the child is 17  
8 years of age, then the court, if the court finds that any of the  
9 conditions exist as outlined in section 2(d) of chapter XIIA of  
10 Act No. 288 of the Public Acts of 1939, ~~as amended,~~ being sec-  
11 tion 712A.2 of the Michigan Compiled Laws, upon motion of the  
12 prosecuting attorney, the child, or his or her representative,  
13 may transfer the case together with all papers connected with the  
14 case to the juvenile division of the probate court of the county  
15 where the offense is alleged to have been committed.

16 Section 2. This amendatory act shall not take effect unless  
17 Senate Bill No. \_\_\_\_\_ or House Bill No. 5792 (request  
18 no. 05922'95) of the 88th Legislature is enacted into law.