

HOUSE BILL No. 4008

January 8, 1997, Introduced by Reps. Birkholz and Fitzgerald and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 15f of chapter IV (MCL 764.15f), as amended
by 1996 PA 418.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER IV

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

(a) The probate court before January 1, 1998 or the family
division of circuit court on or after January 1, 1998 has issued
an order under section ~~13a(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~~ 1939 PA 288, MCL 712A.13A, stating on its
face the period of time for which the order is valid.

1 (b) A true copy of the order and proof of service has been
2 filed with the law enforcement agency having jurisdiction of the
3 area in which the person having custody of the child pursuant to
4 section ~~13a(4)~~ 13A(3) of chapter XIIA of ~~Act No. 288 of the~~
5 ~~Public Acts of 1939~~ 1939 PA 288, MCL 712A.13A, resides.

6 (c) The person named in the order has received notice of the
7 order.

8 (d) The person named in the order is acting in violation of
9 the order.

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

14 (2) If a peace officer arrests a person under this section,
15 the peace officer shall do all of the following:

16 (a) Prepare a complaint of violation of the order substan-
17 tially in the following format:

1 COMPLAINT OF VIOLATION OF CHILD PROTECTIVE ORDER

2 I _____ am a peace officer. I have determined by:
3 (name)

4 _____L.E.I.N. and verification with the police agency holding
5 the order

6 _____Certified or true copy of order

7 _____Other (Describe)_____

8 That_____ family division of circuit court
9 (county)

10 ordered _____
11 (name)
12

13 not to enter the following premises:

14 I have reasonable cause to believe that on_____
15 (date)

16 at _____ the person subject to the order violated the order
17 (time)

18 as follows:

19 (state violations)

20 _____
21 (Signature of officer)

22 _____
23 (Date)

24 (b) Provide 1 copy of the complaint to the person subject to
25 the order and the original and 1 copy to the court that imposed
26 the conditions. The law enforcement agency shall retain 1 copy
27 of the complaint.

28 (3) A person arrested pursuant to this section shall be
29 brought before the family division of circuit court having
30 jurisdiction in the cause within 24 hours after arrest to answer

1 to a charge of contempt for violation of the order, at which time
2 the court shall do each of the following:

3 (a) Set a time certain for a hearing on the alleged viola-
4 tion of the order. The hearing shall be conducted within 72
5 hours after arrest, unless extended by the court on the motion of
6 the arrested person.

7 (b) Set a reasonable bond pending a hearing of the alleged
8 violation of the order.

9 (c) Notify the person having custody of the child under sec-
10 tion ~~13a(4)~~ 13A(3) of chapter XIIIA of ~~Act No. 288 of the~~
11 ~~Public Acts of 1939~~ 1939 PA 288, MCL 712A.13A, and direct that
12 person to appear at the hearing and give evidence on the charge
13 of contempt.

14 (4) For purposes of this section, a judge of the family
15 division of circuit court may arraign, take a plea, or sentence
16 the person for criminal contempt in the same manner that the cir-
17 cuit court may arraign, take a plea, or sentence a person in
18 other criminal cases.

19 (5) If a judge of the family division of circuit court is
20 not present or available within 24 hours after arrest, a person
21 arrested under this section shall be taken before the district
22 court within 24 hours after arrest, at which time the district
23 court shall order the defendant to appear before the family divi-
24 sion of circuit court that entered or has jurisdiction over the
25 order for a hearing on the charge. The district court shall set
26 bond for the person.

1 (6) Upon receipt of a true copy of an order and proof of
2 service under this section, the law enforcement agency shall
3 enter the order into the law enforcement information network as
4 provided by the L.E.I.N. policy council act of 1974, ~~Act No. 163~~
5 ~~of the Public Acts of 1974, being sections 28.211 to 28.216 of~~
6 ~~the Michigan Compiled Laws~~ 1974 PA 163, MCL 28.211 TO 28.216.

7 (7) If an order entered under section ~~13a(4)~~ 13A(3) of
8 chapter XIIIA of ~~Act No. 288 of the Public Acts of 1939~~ 1939 PA
9 288, MCL 712A.13A, is rescinded, the court shall immediately
10 order the law enforcement agency to remove the order from the law
11 enforcement information network.

12 (8) UNTIL JANUARY 1, 1998, A REFERENCE IN THIS SECTION TO
13 THE FAMILY DIVISION OF CIRCUIT COURT MEANS THE PROBATE COURT.

14 Enacting section 1. This amendatory act does not take
15 effect unless Senate Bill No. _____ or House Bill No. _____
16 (request no. 00072'97) of the 89th Legislature is enacted into
17 law.