

SUBSTITUTE FOR
HOUSE BILL NO. 4765

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
(MCL 760.1 to 777.69) by adding sections 27a and 27b to
chapter VIII.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER VIII

2 SEC. 27A. EVIDENCE OF A STATEMENT BY A DECLARANT IS ADMIS-
3 SIBLE AND NOT PROHIBITED AS HEARSAY IF ALL OF THE FOLLOWING
4 APPLY:

5 (A) THE STATEMENT IS OFFERED IN A CRIMINAL PROCEEDING FOR A
6 VIOLATION OF SECTION 81(2), (3), OR (4) OR SECTION 81A(2) OR (3)
7 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.81 AND 750.81A,
8 OR A PROCEEDING REGARDING THE ISSUANCE OF, OR VIOLATION OF, A
9 PERSONAL PROTECTION ORDER AND THE DECLARANT IS THE DEFENDANT'S
10 SPOUSE, FORMER SPOUSE, AN INDIVIDUAL WITH WHOM THE DEFENDANT HAS

HB4765, As Passed House, November 1, 2001

House Bill No. 4765

2

1 HAD A CHILD IN COMMON, AN INDIVIDUAL WITH WHOM THE DEFENDANT HAS
2 OR HAS HAD A DATING RELATIONSHIP, OR A RESIDENT OR FORMER RESI-
3 DENT OF THE SAME HOUSEHOLD AS THE DEFENDANT.

4 (B) THE STATEMENT PURPORTS TO NARRATE, DESCRIBE, OR EXPLAIN
5 THE INFLICTION OF OR THREAT TO INFLICT PHYSICAL INJURY UPON THE
6 DECLARANT.

7 (C) THE STATEMENT WAS MADE AT OR NEAR THE TIME OF THE THREAT
8 OR THE INFLICTION OF PHYSICAL INJURY. EVIDENCE OF A STATEMENT
9 MADE MORE THAN 5 YEARS BEFORE THE FILING OF THE CURRENT ACTION OR
10 PROCEEDING IS INADMISSIBLE UNDER THIS SECTION.

11 (D) THE STATEMENT WAS MADE UNDER CIRCUMSTANCES THAT WOULD
12 INDICATE THE STATEMENT'S TRUSTWORTHINESS.

13 (E) THE STATEMENT WAS MADE IN WRITING, WAS ELECTRONICALLY
14 RECORDED, OR WAS MADE TO A LAW ENFORCEMENT OFFICIAL.

15 SEC. 27B. (1) FOR THE PURPOSE OF SECTION 27A, CIRCUMSTANCES
16 RELEVANT TO THE ISSUE OF TRUSTWORTHINESS INCLUDE, BUT ARE NOT
17 LIMITED TO, ALL OF THE FOLLOWING:

18 (A) WHETHER THE STATEMENT WAS MADE IN CONTEMPLATION OF PEND-
19 ING OR ANTICIPATED LITIGATION IN WHICH THE DECLARANT WAS
20 INTERESTED.

21 (B) WHETHER THE DECLARANT HAS A BIAS OR MOTIVE FOR FABRICAT-
22 ING THE STATEMENT, AND THE EXTENT OF ANY BIAS OR MOTIVE.

23 (C) WHETHER THE STATEMENT IS CORROBORATED BY EVIDENCE OTHER
24 THAN STATEMENTS THAT ARE ADMISSIBLE ONLY UNDER THIS SECTION.

25 (2) A STATEMENT IS ADMISSIBLE UNDER SECTION 27A AND THIS
26 SECTION ONLY IF THE PROPONENT OF THE STATEMENT MAKES KNOWN TO THE
27 ADVERSE PARTY THE INTENTION TO OFFER THE STATEMENT AND THE

HB4765, As Passed House, November 1, 2001

House Bill No. 4765

3

1 PARTICULARS OF THE STATEMENT SUFFICIENTLY IN ADVANCE OF THE
2 PROCEEDINGS IN ORDER TO PROVIDE THE ADVERSE PARTY WITH A FAIR
3 OPPORTUNITY TO PREPARE TO MEET THE STATEMENT.