

HOUSE BILL No. 6461

October 17, 2018, Introduced by Reps. Neeley, LaGrand, Brann, LaSata, Calley, Pagel, Howell, Rabhi, Geiss, Sowerby, Moss, Sabo, Cambensy, Hoadley, Wittenberg, Leutheuser, Ellison, Hammoud, Zemke and Garrett and referred to the Committee on Judiciary.

A bill to amend 1961 PA 44, entitled

"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,"

by amending the title and sections 1, 2, 2a, and 3a (MCL 780.581, 780.582, 780.582a, and 780.583a), sections 1, 2, and 3a as amended by 1990 PA 308 and section 2a as amended by 2001 PA 198; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to provide for the **PRETRIAL** 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.

1 Sec. 1. (1) ~~If~~ **EXCEPT IN A CASE IN WHICH AN APPEARANCE TICKET**
2 **IS ISSUED UNDER SECTION 9C OF CHAPTER IV OF THE CODE OF CRIMINAL**
3 **PROCEDURE, 1927 PA 175, MCL 764.9C, IF** a person is arrested without
4 a warrant for a misdemeanor or a violation of a city, village, or
5 township ordinance, and the misdemeanor or violation is punishable
6 by imprisonment for not more than 1 year, or by a fine, or both,
7 the officer making the arrest shall take, without unnecessary
8 delay, the person arrested before the most convenient magistrate of
9 the county in which the offense was committed ~~to answer to the~~
10 ~~complaint.~~ **FOR AN ARRAIGNMENT.**

11 (2) ~~Except as otherwise provided in section 2a, if~~ **SUBJECT TO**
12 **SUBSECTION (3), IF** a magistrate is not available or immediate trial
13 cannot be had **IN A TIMELY MANNER**, the person arrested ~~may deposit~~
14 ~~with the arresting officer or the direct supervisor of the~~
15 ~~arresting officer or department, or with the sheriff or a deputy in~~
16 ~~charge of the county jail if the person arrested is lodged in the~~
17 ~~county jail, an interim bond to guarantee his or her appearance.~~
18 ~~The bond shall be a sum of money, as determined by the officer who~~
19 ~~accepts the bond, not to exceed the amount of the maximum possible~~
20 ~~fine but not less than 20% of the amount of the minimum possible~~
21 ~~fine that may be imposed for the offense for which the person was~~
22 ~~arrested. The person shall be given a receipt as provided in~~
23 ~~section 3.~~ **MUST BE RELEASED ON HIS OR HER OWN RECOGNIZANCE AND**
24 **PROVIDED WITH A DATE TO APPEAR FOR AN ARRAIGNMENT.**

25 (3) If, in the opinion of the arresting officer or department,
26 the arrested person is under the influence of intoxicating liquor
27 or a controlled substance, or a combination of intoxicating liquor

1 and a controlled substance, is wanted by police authorities to
 2 answer to another charge, is unable to establish or demonstrate his
 3 or her identity, or it is otherwise unsafe to release him or her,
 4 the arrested person ~~shall~~**MUST** be held at the place specified in
 5 subsection (4) until he or she is in a proper condition to be
 6 released, or until the next session of court.

7 (4) For purposes of subsection (3), if the person is arrested
 8 in a political subdivision that has a holding cell, holding center,
 9 or lockup, the person ~~shall~~**MUST** be held in that holding cell,
 10 holding center, or lockup. However, if that holding facility is at
 11 capacity then the person may be held in a holding cell, holding
 12 center, or lockup willing to accept the prisoner. If the person is
 13 arrested in a political subdivision that does not have a holding
 14 cell, holding center, or lockup, the person ~~shall~~**MUST** be held in a
 15 holding cell, holding center, or lockup willing to accept the
 16 prisoner or in the county jail. As used in this subsection,
 17 "political subdivision" means a city, village, or township.

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

26 Sec. 2a. (1) ~~A~~**EXCEPT AS PROVIDED IN SECTION 1, A** person shall
 27 ~~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 judiciary 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~~

1 ~~person, of the specific conditions imposed and that if the person~~
2 ~~violates a condition of release, he or she will be subject to~~
3 ~~arrest without a warrant and may have his or her bond forfeited or~~
4 ~~revoked and new conditions of release imposed, in addition to any~~
5 ~~other penalties that may be imposed if he or she is found in~~
6 ~~contempt of court.~~

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

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

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

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

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

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

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

27 ~~—— (6) A law enforcement agency within the jurisdiction of the~~

~~1 court shall immediately enter an order or amended order into the~~
~~2 law enforcement information network as provided by the L.E.I.N.~~
~~3 policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216, or~~
~~4 shall remove the order or amended order from the law enforcement~~
~~5 information network upon expiration of the order or as directed by~~
~~6 the court under subsection (5).~~

7 **(2)** ~~(7)~~ This section does not limit the authority of judges or
8 district court magistrates to impose protective or other release
9 conditions under other applicable statutes or court rules.

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

16 Enacting section 1. Sections 3, 4, 5, and 6 of 1961 PA 44, MCL
17 780.583, 780.584, 780.585, and 780.586, are repealed.

18 Enacting section 2. This amendatory act takes effect 90 days
19 after the date it is enacted into law.

20 Enacting section 3. This amendatory act does not take effect
21 unless Senate Bill No. ____ or House Bill No. 6463 (request no.
22 03481'17 a) of the 99th Legislature is enacted into law.