

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)
Act 175 of 1927

***** 764.3.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 13, 2024 *****

764.3.amended Failure to appear; rebuttable presumption for first failure; revocation of release order or forfeiture of bail; issuance of warrant; conditions and reasons.

Sec. 3. (1) Notwithstanding any provision of law to the contrary and except in cases where the complaint is for an assaultive crime or an offense involving domestic violence, in the event that a defendant fails to appear for a court hearing and it is the defendant's first failure to appear in the case, there is a rebuttable presumption that the court must wait 48 hours before issuing a bench warrant to allow the defendant to voluntarily appear. If the defendant does not appear within 48 hours, the court shall issue a bench warrant unless the court believes there is good reason to instead schedule the case for further hearing.

(2) When a court delays the issuance of a warrant, the court shall not revoke the release order or declare bail money deposited or the surety bond, if any, forfeited. Upon the issuance of the arrest warrant, the court may then enter an order revoking the release order and declaring the bail money deposited, personal recognizance bond, surety bond, or 10% bond, if any, forfeited.

(3) The court may overcome the presumption under subsection (1) and issue an immediate bench warrant for the defendant's failure to appear if the court has a specific articulable reason to suspect that any of the following apply:

- (a) The defendant has committed a new crime.
- (b) A person or property will be endangered if a bench warrant is not issued.
- (c) Prosecution witnesses have been summoned and are present for the proceeding.
- (d) The proceeding is to impose a sentence for the crime.
- (e) There are other compelling circumstances that require the immediate issuance of a bench warrant.

(4) If the court departs from the presumption under subsection (1) and issues an immediate bench warrant, the court must state on the record its reasons for doing so.

(5) As used in this section:

(a) "Assaultive crime" includes any of the following:

(i) A violation described in section 9a of chapter X.

(ii) A violation of chapter XI of the Michigan penal code, 1931 PA 328, MCL 750.81 to 750.90g, not otherwise included in subparagraph (i).

(iii) A violation of section 110a, 136b, 234a, 234b, 234c, 349b, or 411h of the Michigan penal code, 1931 PA 328, MCL 750.110a, 750.136b, 750.234a, 750.234b, 750.234c, 750.349b, and 750.411h, or any other violent felony.

(iv) A violation of a law of another state or of a political subdivision of this state or of another state that substantially corresponds to a violation described in subparagraph (i), (ii), or (iii).

(b) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(c) "Violent felony" means that term as defined in section 36 of the corrections code of 1953, 1953 PA 232, MCL 791.236.

History: Add. 2020, Act 394, Eff. Apr. 1, 2021;—Am. 2023, Act 208, Eff. Feb. 13, 2024.

Compiler's note: Former MCL 764.3, which pertained to return of arrest warrant, was repealed by Act 506 of 1980, Imd. Eff. Jan. 22, 1981.