

Act No. 394  
Public Acts of 2020  
Approved by the Governor  
January 4, 2021  
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**STATE OF MICHIGAN  
100TH LEGISLATURE  
REGULAR SESSION OF 2020**

Introduced by Senators Irwin, Santana, Chang, Wojno, Bullock, Bayer, Alexander, Moss, McMorrow, Geiss, McCann, Brinks, Polehanki, Hertel and Daley

# ENROLLED SENATE BILL No. 1047

AN ACT to amend 1927 PA 175, entitled “An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending sections 1, 1a, and 9e of chapter IV (MCL 764.1, 764.1a, and 764.9e), section 1 of chapter IV as amended by 2014 PA 389 and section 1a of chapter IV as amended by 2012 PA 177, and by adding section 10d to chapter II, sections 3 and 6f to chapter IV, and section 6e to chapter V.

*The People of the State of Michigan enact:*

## CHAPTER II

Sec. 10d. (1) Except in cases in which the person is alleged to have committed an assaultive crime or an offense involving domestic violence, a person who is wanted on a bench warrant or a warrant of arrest who voluntarily presents himself or herself to the court that issued the warrant within 1 year of the warrant issuance must be processed by the court according to this section.

(2) If a judicial officer is available to arraign the person on the warrant within 2 hours of the person’s appearance, the court must arraign the person and set his or her case for the next stage of criminal proceedings. It must be presumed that the person is not a flight risk when the court sets bond or other conditions of release at an arraignment under this subsection.

(3) If a judicial officer is not available to arraign the person on the warrant within 2 hours of the person's appearance, the court shall recall the warrant and schedule the case for future arraignment.

(4) A court may deny a person the benefit of the procedure provided for in this section if the person has already benefitted from the procedure on any pending criminal charges.

(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 750.90h, 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.

## CHAPTER IV

Sec. 1. (1) For the apprehension or summons of persons charged with a felony, misdemeanor, or ordinance violation, a judge or district court magistrate may issue processes to implement this chapter, except that a judge or district court magistrate shall not issue a warrant or summons for other than a minor offense unless an authorization in writing allowing the issuance of the warrant or summons is filed with the judge or district court magistrate and, except as otherwise provided in this act, the authorization is signed by the prosecuting attorney, or unless security for costs is filed with the judge or district court magistrate.

(2) A judge or district court magistrate shall not issue a warrant for a minor offense unless an authorization in writing allowing the issuance of the warrant is filed with the judge or district court magistrate and signed by the prosecuting attorney, or unless security for costs is filed with the judge or district court magistrate, except if the warrant is requested by any of the following officials for the following offenses:

(a) Agents of the state transportation department, a county road commission, or the public service commission for violations of the motor carrier act, 1933 PA 254, MCL 475.1 to 479.42, or the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.25, the enforcement of which has been delegated to them.

(b) The director of the department of natural resources, or a special assistant or conservation officer appointed by the director of the department of natural resources and declared by statute to be a peace officer, for a violation of a law that provides for the protection of wild game or fish.

(3) A complaint for an arrest warrant or summons may be made and an arrest warrant or summons may be issued by any electronic or electromagnetic means of communication from any location in this state, if all of the following occur:

(a) The prosecuting attorney authorizes the issuance of the warrant or summons. Authorization may consist of an electronically or electromagnetically transmitted facsimile of the signed authorization.

(b) The judge or district court magistrate orally administers the oath or affirmation, in person or by any electronic or electromagnetic means of communication, to an applicant for an arrest warrant or summons who submits a complaint under this subsection.

(c) The applicant signs the complaint. Proof that the applicant has signed the complaint may consist of an electronically or electromagnetically transmitted facsimile of the signed complaint.

(4) The person or department receiving an electronically or electromagnetically issued arrest warrant or summons must receive proof that the issuing judge or district court magistrate has signed the warrant or summons before the warrant or summons is executed. Proof that the issuing judge or district court magistrate has signed the warrant or summons may consist of an electronically or electromagnetically transmitted facsimile of the signed warrant or summons.

(5) A judge or district court magistrate may sign an electronically or electromagnetically issued arrest warrant or summons when he or she is at any location in this state.

Sec. 1a. (1) A magistrate shall issue a warrant or summons upon presentation of a proper complaint alleging the commission of an offense and a finding of reasonable cause to believe that the individual accused in the complaint committed that offense. The complaint must be sworn to before a magistrate or clerk.

(2) Except in cases in which any of the following circumstances apply, the magistrate or clerk must issue a summons rather than a warrant:

(a) The complaint is for an assaultive crime or an offense involving domestic violence.

(b) The clerk or magistrate has reason to believe from the presentation of the complaint that the person against whom the complaint was made will not appear upon a summons.

(c) The issuance of summons poses a risk to public safety.

(d) The prosecutor has requested a warrant.

(3) A summons must be in the same form as a warrant except that it must summon the defendant to appear before a court at a stated date and time. The summons must be served upon a defendant by delivering a copy to him or her personally, by leaving it at his or her dwelling house or usual place of abode with some person of suitable age and discretion residing at that place, or by mailing it to the defendant's last known address. If a defendant fails to appear in response to the summons, a warrant may be issued.

(4) The finding of reasonable cause by the magistrate may be based upon 1 or more of the following:

(a) Factual allegations of the complainant contained in the complaint.

(b) The complainant's sworn testimony.

(c) The complainant's affidavit.

(d) Any supplemental sworn testimony or affidavits of other individuals presented by the complainant or required by the magistrate.

(5) The magistrate may require sworn testimony of the complainant or other individuals. Supplemental affidavits may be sworn to before an individual authorized by law to administer oaths. The factual allegations contained in the complaint, testimony, or affidavits may be based upon personal knowledge, information and belief, or both.

(6) The magistrate shall not refuse to accept a complaint alleging a violation of section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, or a violation of a local ordinance substantially corresponding to section 81 of the Michigan penal code, 1931 PA 328, MCL 750.81, by the spouse of the victim, a former spouse of the victim, an individual with whom the victim has had a child in common, an individual with whom the victim has or has had a dating relationship, or an individual residing or having resided in the same household as the victim on grounds that the complaint is signed upon information and belief by an individual other than the victim.

(7) The magistrate shall not refuse to accept a complaint alleging that a crime was committed in which the victim is a vulnerable adult on the grounds that the complaint is signed upon information and belief by an individual other than the victim.

(8) A warrant or summons may be issued under this section only upon compliance with the requirements of section 1 of this chapter.

(9) 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 750.90h, 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) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

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

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

(e) "Vulnerable adult" means that term as defined in section 145m of the Michigan penal code, 1931 PA 328, MCL 750.145m.

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 750.90h, 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.

Sec. 6f. (1) Each district court and county jail shall establish a communication protocol to enable the swift processing of individuals detained on a warrant of arrest that originated in another county.

(2) Each district court shall establish a hearing protocol for individuals detained on a warrant of arrest that originated in another county. This protocol must include the use of 2-way interactive video technology, when appropriate.

Sec. 9e. (1) If after the service of an appearance ticket and the filing of a complaint for the offense designated on the appearance ticket the defendant does not appear in the designated local criminal court within the time the appearance ticket is returnable, the court may issue a summons or a warrant as provided in this section.

(2) Notwithstanding any provision of law to the contrary, in the event that a defendant fails to appear for a court hearing within the time the appearance ticket is returnable there is a rebuttable presumption that the court must issue an order to show cause why the defendant failed to appear instead of issuing a warrant.

(3) The court may overcome the presumption and issue a warrant if it has a specific articulable reason to suspect that any of the following apply:

(a) The defendant committed a new crime.

(b) The defendant's failure to appear is the result of a willful intent to avoid or delay the adjudication of the case.

(c) Another person or property will be endangered if a warrant is not issued.

(4) If the court overcomes the presumption under subsection (2) and issues a warrant, the court must state on the record its reasons for doing so.

## CHAPTER V

Sec. 6e. (1) Except in cases in which the person is alleged to have committed an assaultive crime or an offense involving domestic violence, a person who is detained on warrant of arrest in a county other than the county from

which the warrant originated must be released from custody if the county from which the warrant originated does not make arrangements within 48 hours from the time the person was detained to pick the person up and does not in fact pick the person up within 72 hours after the time he or she was detained. If a person is released from custody under this section, the releasing facility must contact the originating court and obtain a court date for the defendant to appear.

(2) 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 750.90h, not otherwise included in subparagraph (i).

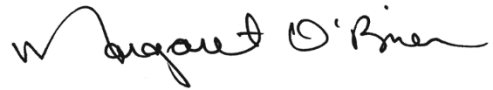
(iii) A violation of section 110a, 136b, 234a, 234b, 234c, 349b, or 411h of the Michigan penal code, 1931 PA 328, MCL 750.110a, 750.136b, 750.234a, 750.234b, 750.234c, 750.349b, and 750.411h, or any other violent felony.

(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.

Enacting section 1. This amendatory act takes effect April 1, 2021.



Secretary of the Senate



Clerk of the House of Representatives

Approved \_\_\_\_\_

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Governor