

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

764.1 Issuance of processes; authorization for issuance of warrant or summons; exception; making complaint for arrest warrant or summons by electronic or electromagnetic means; proof of signing; location.

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.

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- Am. 1929, Act 290, Eff. Aug. 28, 1929 ;-- CL 1929, 17135 ;-- Am. 1931, Act 173, Imd. Eff. May 27, 1931 ;-- CL 1948, 764.1 ;-- Am. 1978, Act 616, Eff. Aug. 1, 1979 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981 ;-- Am. 1990, Act 41, Imd. Eff. Mar. 29, 1990 ;-- Am. 2004, Act 318, Imd. Eff. Aug. 27, 2004 ;-- Am. 2014, Act 389, Imd. Eff. Dec. 22, 2014 ;-- Am. 2020, Act 394, Eff. Apr. 1, 2021

Former Law: See section 1 of Ch. 163 of R.S. 1846, being CL 1857, § 5977; CL 1871, § 7843; How., § 9454; CL 1897, § 11838; CL 1915, § 15665; Act 4 of 1858; and section 1 of Act 108 of 1883, being How., § 7135a; CL 1897, § 1061; and CL 1915, § 15811.

764.1a Complaint; allegations; swearing before magistrate or clerk; issuance of summons; finding of reasonable cause; testimony; supplemental affidavits; basis of factual obligations; complaint alleging violation of MCL 750.81 or 750.81a or corresponding ordinance; refusal to accept complaint prohibited;

compliance with MCL 764.1; definitions.

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 the defendant personally, by leaving it at the defendant's 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 750.90g, 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) "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.

History: Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981 ;-- Am. 1994, Act 70, Eff. July 1, 1994 ;-- Am. 2005, Act 106, Imd. Eff. Sept. 14,

764.1b Warrant; recitation of accusation; directions to peace officer.

Sec. 1b.

A warrant issued pursuant to section 1a shall recite the substance of the accusation contained in the complaint. Except as permitted in section 1c of this chapter, the warrant shall be directed to a peace officer; shall command the peace officer immediately to arrest the person accused and to take that person, without unnecessary delay, before a magistrate of the judicial district in which the offense is charged to have been committed, to be dealt with according to law; and shall direct that the warrant, with a proper return noted on the warrant, be delivered to the magistrate before whom the arrested person is to be taken. The warrant may also require the peace officer to summon the witnesses named in the warrant.

History: Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981

764.1c Issuing warrant or endorsing complaint if accused in custody upon arrest without warrant; finding of reasonable cause; endorsement as complaint and warrant.

Sec. 1c.

(1) If the accused is in custody upon an arrest without a warrant, a magistrate, upon finding reasonable cause as provided in section 1a of this chapter, shall do either of the following:

- (a) Issue a warrant as provided in section 1b of this chapter.
- (b) Endorse upon the complaint a finding of reasonable cause and a direction to take the accused before a magistrate of the judicial district in which the offense is charged to have been committed.

(2) As endorsed pursuant to subsection (1)(b), the complaint shall constitute both a complaint and warrant.

History: Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981

764.1d Complaint; recitation of accusation; factual allegations.

Sec. 1d.

A complaint shall recite the substance of the accusation against the accused. The complaint may contain factual allegations establishing reasonable cause.

History: Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981

764.1e Complaint signed by peace officer; statement; making materially false statement in complaint as perjury; penalty; contempt of court.

Sec. 1e.

(1) For purposes of sections 1a to 1d of this chapter, a complaint signed by a peace officer shall be treated as made under oath if the offense alleged in the complaint is a misdemeanor or ordinance violation for which the maximum permissible penalty does not exceed 93 days in jail or a fine, or both, that was committed in the signing

officer's presence or that was committed under circumstances permitting the officer's issuance of a citation under section 625a or 728(8) of the Michigan vehicle code, 1949 PA 300, MCL 257.625a and 257.728, and if the complaint contains the following statement immediately above the date and signature of the officer:

"I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief."

(2) A peace officer who, knowing the statement is false, makes a materially false statement in a complaint signed under subsection (1) is guilty of perjury, a felony punishable by imprisonment for not more than 15 years, and in addition, is in contempt of court.

History: Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981 ;-- Am. 1999, Act 76, Eff. Oct. 1, 1999

764.1f Juvenile; filing complaint and warrant with magistrate; "specified juvenile violation" defined.

Sec. 1f.

(1) If the prosecuting attorney has reason to believe that a juvenile 14 years of age or older but less than 18 years of age has committed a specified juvenile violation, the prosecuting attorney may authorize the filing of a complaint and warrant on the charge with a magistrate concerning the juvenile.

(2) As used in this section, "specified juvenile violation" means any of the following:

(a) A violation of section 72, 83, 86, 89, 91, 316, 317, 349, 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531.

(b) A violation of section 84 or 110a(2) of the Michigan penal code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile is armed with a dangerous weapon. As used in this subdivision, "dangerous weapon" means 1 or more of the following:

(i) A loaded or unloaded firearm, whether operable or inoperable.

(ii) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

(iii) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.

(iv) An object or device that is used or fashioned in a manner to lead a person to believe the object or device is an object or device described in subparagraphs (i) to (iii).

(c) A violation of section 186a of the Michigan penal code, 1931 PA 328, MCL 750.186a, regarding escape or attempted escape from a juvenile facility, but only if the juvenile facility from which the individual escaped or attempted to escape was 1 of the following:

(i) A high-security or medium-security facility operated by the family independence agency or a county juvenile agency.

(ii) A high-security facility operated by a private agency under contract with the family independence agency or a county juvenile agency.

(d) A violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403.

(e) An attempt to commit a violation described in subdivisions (a) to (d).

(f) Conspiracy to commit a violation described in subdivisions (a) to (d).

(g) Solicitation to commit a violation described in subdivisions (a) to (d).

(h) Any lesser included offense of a violation described in subdivisions (a) to (g) if the individual is charged with a violation described in subdivisions (a) to (g).

(i) Any other violation arising out of the same transaction as a violation described in subdivisions (a) to (g) if the individual is charged with a violation described in subdivisions (a) to (g).

History: Add. 1988, Act 67, Eff. Oct. 1, 1988 ;-- Am. 1994, Act 195, Eff. Oct. 1, 1994 ;-- Am. 1996, Act 255, Eff. Jan. 1, 1997 ;-- Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999 ;-- Am. 2019, Act 106, Eff. Oct. 1, 2021

Compiler's Notes: Section 3 of Act 67 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 173 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

764.1g Arrest warrant; determination that person is parolee; use of LEIN; notice.

Sec. 1g.

(1) Before a warrant is issued for the arrest of a person who is not in custody, the law enforcement agency investigating the crime shall use the law enforcement information network to determine whether the person is a parolee under the jurisdiction of the department of corrections. If the person is determined to be a parolee under the jurisdiction of the department of corrections, and the magistrate issues a warrant for the arrest of that person, the investigating law enforcement agency or, if the court is entering arrest warrants into the law enforcement information network and the investigating law enforcement agency informs the court that the person is a parolee, the court shall promptly give to the department of corrections, by telephonic or electronic means, notice of all of the following:

(a) The identity of the person named in the warrant.

(b) The fact that information in databases managed by the department of corrections and accessible by the law enforcement information network provides reason to believe the person named in the warrant is a parolee under the jurisdiction of the department of corrections.

(c) The charge or charges stated in the warrant.

(2) If the court has assumed the responsibility for entering arrest warrants into the law enforcement information network and delays issuance or entry of a warrant pending a court appearance by the person named in the warrant, the law enforcement agency submitting the sworn complaint to the court shall promptly give to the department of corrections, by telephonic or electronic means, notice of the following:

(a) The identity of the person named in the sworn complaint.

(b) The fact that a prosecuting attorney has authorized issuance of a warrant.

(c) The fact that information in databases managed by the department of corrections and accessible by the law enforcement information network provides reason to believe the person named in the sworn complaint is a parolee under the jurisdiction of the department of corrections.

(d) The charge or charges stated in the sworn complaint.

(e) Whether, pending a court appearance by the person named in the sworn complaint, the court has either issued the arrest warrant but delayed entry of the warrant into the law enforcement information network or has delayed issuance of the warrant.

(3) The requirement to give notice to the department of corrections under subsection (1) or (2) is complied with if the notice is transmitted to any of the following:

(a) To the department by a central toll-free telephone number that is designated by the department for that purpose and that is in operation 24 hours a day and is posted in the department's database of information concerning the status of parolees.

(b) To a parole agent serving the county where the warrant is issued or is being sought.

(c) To the supervisor of the parole office serving the county where the warrant is issued or is being sought.

History: Add. 2006, Act 668, Imd. Eff. Jan. 10, 2007

764.2 Warrant; pursuit and apprehension of party in other county; aid.

Sec. 2.

If any person against whom a warrant shall be issued for an alleged offense committed within any county, shall, either before or after the issuing of such warrant, escape from or be out of the county, the sheriff or other officer to whom such warrant may be directed, may pursue and apprehend the party charged, in any county of this state, and for that purpose may command aid and may exercise the same authority as in his own county.

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17136 ;-- CL 1948, 764.2

Former Law: See section 4 of Ch. 163 of R.S. 1846, being CL 1857, § 5980; CL 1871, § 7846; How., § 9457; CL 1897, § 11841; and CL 1915, § 15668.

764.2a Peace officer; exercise of authority in other county, city, village, township, public airport authority, or university; violation involving water vessel; "public airport authority" defined.

Sec. 2a.

(1) A peace officer of a county, city, village, township, public airport authority, or university of this state may exercise the authority and powers of a peace officer outside the geographical boundaries of the officer's county, city, village, township, public airport authority, or university under any of the following circumstances:

- (a) If the officer is enforcing the laws of this state in conjunction with the Michigan state police.
- (b) If the officer is enforcing the laws of this state in conjunction with a peace officer of any other county, city, village, township, public airport authority, or university in which the officer may be.
- (c) If the officer has witnessed an individual violate any of the following within the geographical boundaries of the officer's county, city, village, township, public airport authority, or university and immediately pursues the individual outside of the geographical boundaries of the officer's county, city, village, township, public airport authority, or university:
 - (i) A state law or administrative rule.
 - (ii) A local ordinance.
 - (iii) A state law, administrative rule, or local ordinance, the violation of which is a civil infraction, municipal civil infraction, or state civil infraction.
- (d) If a public airport authority officer has witnessed an individual violate any of the following while the individual is outside the geographical boundaries of the public airport authority but the violation committed by the individual occurs within the airspace above the public airport authority and immediately pursues the individual:
 - (i) A state law or administrative rule.
 - (ii) A local ordinance.
 - (iii) A state law, administrative rule, or local ordinance, the violation of which is a civil infraction, municipal civil infraction, or state civil infraction.

(2) The officer pursuing an individual under subsection (1)(c) or (d) may stop and detain the person outside the geographical boundaries of the officer's county, city, village, township, public airport authority, or university for the purpose of enforcing that law, administrative rule, or ordinance or enforcing any other law, administrative rule, or ordinance before, during, or immediately after the detaining of the individual. If the violation or pursuit involves a vessel moving on the waters of this state, the officer pursuing the individual may direct the operator of the vessel to bring the vessel to a stop or maneuver it in a manner that permits the officer to come beside the vessel.

(3) As used in this section, "public airport authority" means an authority created under section 110 or a regional authority created under section 139 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.110 and 259.139, that is a political subdivision and instrumentality of the local government that owns the airport and is considered a public agency of the local government for purposes of state and federal law.

History: Add. 1939, Act 100, Imd. Eff. May 16, 1939 ;-- CL 1948, 764.2a ;-- Am. 1975, Act 159, Imd. Eff. July 14, 1975 ;-- Am. 2002, Act 483, Eff. Oct. 1, 2002 ;-- Am. 2016, Act 326, Eff. Feb. 20, 2017

764.2b Authority and immunity of law enforcement officer of another state; definitions.

Sec. 2b.

(1) A law enforcement officer of an adjacent state has the same authority and immunity as a law enforcement officer of this state as provided by law if all of the following conditions are met:

- (a) The law enforcement officer is authorized to arrest a person, with or without a warrant, for a violation of a penal statute or law in the adjacent state.
- (b) The law enforcement officer is on duty as a law enforcement officer in the adjacent state.
- (c) The law enforcement officer notifies a law enforcement officer or agency of this state that he or she is in this state and 1 or more of the following apply:
 - (i) The law enforcement officer is engaged in pursuing, arresting, or attempting to arrest an individual for a violation of a law in the adjacent state.
 - (ii) The law enforcement officer is in this state at the request of a law enforcement officer of this state.
 - (iii) The law enforcement officer is working in conjunction with a law enforcement officer of this state.
 - (iv) The law enforcement officer is responding to an emergency.

(2) As used in this section:

- (a) "Adjacent state" means Indiana, Ohio, Minnesota, or Wisconsin.
- (b) "Emergency" means a sudden or unexpected circumstance that requires immediate action to protect the health, safety, welfare, or property of an individual from actual or threatened harm or from an unlawful act.
- (c) "Law enforcement officer of this state" means a law enforcement officer as defined in section 2 of the commission on law enforcement standards act, 1965 PA 203, MCL 28.602.

History: Add. 2000, Act 311, Imd. Eff. Oct. 17, 2000

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

764.4 Taking person arrested pursuant to warrant before magistrate of judicial circuit in which arrest made; conditions.

Sec. 4.

If a person is arrested pursuant to a warrant which charges an offense other than an offense for which bail may be denied, if the arrest is made in a county other than that in which the offense is charged to have been committed, and if the person arrested requests that he or she be brought before a magistrate of the judicial district in which the arrest was made, the person arrested shall be taken before a magistrate of that judicial district and shall be dealt with as provided in sections 5, 6, and 7 of this chapter.

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17138 ;-- CL 1948, 764.4 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

Former Law: See section 5 of Ch. 163 of R.S. 1846, being CL 1857, § 5981; CL 1871, § 7847; How., § 9458; CL 1897, § 11842; and CL 1915, § 15669.

764.5 Taking recognizance for arrested person's appearance before magistrate of judicial circuit in which offense charged to have been committed.

Sec. 5.

The magistrate may take from the person arrested, a recognizance with sufficient sureties, for the person's appearance within 10 days before a magistrate of the judicial district in which the offense is charged to have been committed.

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- Am. 1929, Act 24, Imd. Eff. Apr. 2, 1929 ;-- CL 1929, 17139 ;-- CL 1948, 764.5 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

Former Law: See section 6 of Ch. 163 of R.S. 1846, being CL 1857, § 5982; CL 1871, § 7848; How., § 9459; CL 1897, § 11843; CL 1915, § 15670; and Act 302 of 1925.

764.6 Recognizance; certification; delivery.

Sec. 6.

The magistrate shall certify on the recognizance the fact of having let the defendant post bail and shall deliver the recognizance taken to the person who made the arrest, who shall cause the recognizance to be delivered without unnecessary delay to a magistrate or clerk of the court in the judicial district before which the accused is recognized to appear.

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17140 ;-- CL 1948, 764.6 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

Former Law: See section 7 of Ch. 163 of R.S. 1846, being CL 1857, § 5983; CL 1871, § 7849; How., § 9460; CL 1897, § 11844; and CL 1915, § 15671.

764.6f Communication and hearing protocols for swift processing of warrants originated in another county.

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.

History: Add. 2020, Act 394, Eff. Apr. 1, 2021

764.7 Taking arrested person before magistrate of judicial circuit in which offense charged to have been committed in absence of bail.

Sec. 7.

If the magistrate refuses to allow the arrested person to post bail, or if sufficient bail is not offered, the official having charge of the arrested person shall take the arrested person before a magistrate of the judicial district in which the offense is charged to have been committed.

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17141 ;-- CL 1948, 764.7 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

Former Law: See section 8 of Ch. 163 of 1846, being CL 1857, § 5984; CL 1871, § 7850; How., § 9461; CL 1897, § 11845; and CL 1915, § 15672.

764.8 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's Notes: The repealed section pertained to offense not cognizable by justice of peace.

764.9 Repealed. 1988, Act 113, Imd. Eff. May 2, 1988.

Compiler's Notes: The repealed section pertained to arrested person's right to be brought before magistrate where offense cognizable by justice of the peace.

764.9a Minor offense; written order for summons; contents; service.

Sec. 9a.

(1) As an alternative to filing an order allowing a warrant as provided in section 1 if the arrest is to be for a minor offense, the prosecuting attorney may issue a written order for a summons addressed to a defendant, directing the defendant to appear before a magistrate of the judicial district in which the offense is charged to have been committed, at a designated future time for proceedings as set forth in this act.

(2) A summons shall designate the name of the issuing court, the offense charged in the underlying complaint, and the name of the defendant to whom it is addressed, and shall be subscribed by the issuing magistrate.

(3) A summons may be served in the same manner as a warrant.

History: Add. 1968, Act 147, Eff. Nov. 15, 1968 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

764.9b Repealed. 1999, Act 76, Eff. Oct. 1, 1999.

Compiler's Notes: The repealed section pertained to arrest without warrant for minor offense.

764.9c Arrest without warrant for misdemeanor or ordinance violation; issuance and service of appearance ticket by police officer or specially authorized public servant; exceptions; circumstances for arrest; time period for charges or release; definitions.

Sec. 9c.

(1) Except as provided in subsection (3), if a police officer has arrested a person without a warrant for a misdemeanor or ordinance violation, instead of taking the person before a magistrate and promptly filing a complaint as provided in section 13 of this chapter, the officer may issue to and serve upon the person an appearance ticket as defined in section 9f of this chapter and release the person from custody. The appearance ticket issued under this section, or other documentation as requested, must be forwarded to the court, appropriate prosecuting authority, or both, for review without delay.

(2) A public servant other than a police officer, who is specially authorized by law or ordinance to issue and serve appearance tickets with respect to a particular class of offenses of less than felony grade, may issue and serve upon a person an appearance ticket if the public servant has reasonable cause to believe that the person has committed an offense.

(3) An appearance ticket must not be issued to any of the following:

(a) A person arrested for a domestic violence 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 a domestic violence violation of section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, or an offense involving domestic violence as that term is defined in section 1 of 1978 PA 389, MCL 400.1501.

(b) A person subject to detainment for violating a personal protection order.

(c) A person subject to a mandatory period of confinement, condition of bond, or other condition of release until he or she has served that period of confinement or meets that requirement of bond or other condition of release.

(d) A person arrested for a serious misdemeanor.

(e) A person arrested for any other assaultive crime.

(4) Except as provided in subsection (5), a police officer shall issue to and serve upon a person an appearance ticket as defined in section 9f of this chapter and release the person from custody if the person has been arrested for a misdemeanor or ordinance violation that has a maximum permissible penalty that does not exceed 1 year in jail or a fine, or both, and is not a serious misdemeanor, assaultive crime, domestic violence violation of section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, a local ordinance substantially corresponding to a domestic violence violation of section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, an offense involving domestic violence as that term is defined in section 1 of 1978 PA 389, MCL 400.1501, or an operating while intoxicated offense.

(5) The police officer may take the arrested person before a magistrate and promptly file a complaint as provided in section 13 of this chapter instead of issuing an appearance ticket as required under subsection (4) if 1 of the following circumstances is present:

(a) The arrested person refuses to follow the police officer's reasonable instructions.

(b) The arrested person will not offer satisfactory evidence of identification.

(c) There is a reasonable likelihood that the offense would continue or resume, or that another person or property would be endangered if the arrested person is released from custody.

(d) The arrested person presents an immediate danger to himself or herself or requires immediate medical examination or medical care.

(e) The arrested person requests to be taken immediately before a magistrate.

(f) Any other reason that the police officer may deem reasonable to arrest the person which must be articulated in the arrest report.

(6) If a police officer determines that 1 of the circumstances under subsection (5) applies and he or she takes an arrested person before a magistrate and promptly files a complaint as provided in section 13 of this chapter instead of issuing an appearance ticket, the police officer must specify the reason for not issuing a citation in the arrest report or other documentation, as applicable, and must forward the arrest report or other documentation, as requested, to the appropriate prosecuting authority for review without delay.

(7) An arrested person who is taken into custody under subsection (6) instead of being issued an appearance ticket must be charged by the appropriate prosecuting authority or released from custody not later than 3 p.m. the immediately following day during which arraignments may be performed.

(8) This section does not create a right to the issuance of an appearance ticket in lieu of an arrest. An arrested person may appeal the legality of his or her arrest as provided by law. However, an arrested person does not have a claim for damages against a police officer or law enforcement agency because he or she was arrested rather than

issued an appearance ticket.

(9) As used in this section:

(a) "Assaultive crime" means that term as defined in section 9a of chapter X.

(b) "Operating while intoxicated offense" means a violation of any of the following:

(i) Section 625 or 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m.

(ii) A local ordinance substantially corresponding to a violation listed in subparagraph (i).

(iii) A law of an Indian tribe substantially corresponding to a violation listed in subparagraph (i).

(iv) A law of another state substantially corresponding to a violation listed in subparagraph (i).

(v) A law of the United States substantially corresponding to a violation listed in subparagraph (i).

(c) "Serious misdemeanor" means that term as defined in section 61 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.811.

History: Add. 1968, Act 147, Eff. Nov. 15, 1968 ;-- Am. 1970, Act 147, Imd. Eff. Sept. 1, 1970 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981 ;-- Am. 1984, Act 366, Eff. Mar. 29, 1985 ;-- Am. 1999, Act 76, Eff. Oct. 1, 1999 ;-- Am. 2001, Act 208, Eff. Apr. 1, 2002 ;-- Am. 2020, Act 393, Eff. Apr. 1, 2021 ;-- Am. 2021, Act 39, Imd. Eff. July 1, 2021

764.9d Complaint; filing; contents; dismissal.

Sec. 9d.

(1) Except as otherwise provided by sections 9f and 9g, a police officer or other public servant who has issued and served an appearance ticket, at or before the time the appearance ticket is returnable, shall file or cause to be filed in the local criminal court in which it is returnable a complaint charging the person named in the appearance ticket with the offense specified therein.

(2) If the complaint is not sufficient on its face, and if the court is satisfied that a complaint sufficient on its face cannot be drawn and filed on the basis of the available facts or evidence, it shall dismiss the complaint.

History: Add. 1968, Act 147, Eff. Nov. 15, 1968 ;-- Am. 1970, Act 147, Imd. Eff. Sept. 1, 1970

764.9e Failure to appear; rebuttable presumption; articulable reasons to overcome presumption.

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.

History: Add. 1968, Act 147, Eff. Nov. 15, 1968 ;-- Am. 2020, Act 394, Eff. Apr. 1, 2021

764.9f Appearance ticket; definition; consecutive numbering; form; contents; modification.

Sec. 9f.

(1) As used in sections 9c to 9g, "appearance ticket" means a complaint or written notice issued and subscribed by a police officer or other public servant authorized by law or ordinance to issue it directing a designated person to appear in a designated local criminal court at a designated future time in connection with his or her alleged commission of a designated violation or violations of state law or local ordinance. The appearance tickets must be numbered consecutively, provide a space for the defendant's cellular telephone number and electronic mail address, if applicable, be in a form required by the attorney general, the state court administrator, and the director of the department of state police, and consist of the following parts:

- (a) The original which must be a complaint or notice to appear by the officer and filed with the court.
- (b) The first copy which must be the abstract of court record.
- (c) The second copy which must be retained by the local enforcement agency.
- (d) The third copy which must be delivered to the alleged violator.

(2) With the prior approval of the state officials listed in subsection (1), an appearance ticket may be appropriately modified as to content or number of copies to accommodate law enforcement and local court procedures and practices.

History: 1988, Act 49, Imd. Eff. Mar. 11, 1988 ;-- Am. 1996, Act 81, Imd. Eff. Feb. 27, 1996 ;-- Am. 1998, Act 264, Eff. Mar. 23, 1999 ;-- Am. 1999, Act 76, Eff. Oct. 1, 1999 ;-- Am. 2020, Act 393, Eff. Apr. 1, 2021

764.9g Magistrates jurisdiction; pleas, complaint.

Sec. 9g.

(1) When under the provisions of sections 9b or 9c an officer issues an appearance ticket, an examining magistrate may accept a plea of guilty or not guilty upon the appearance ticket, without the necessity of a sworn complaint. If the offender pleads not guilty, no further proceedings may be had until a sworn complaint is filed with the magistrate. A warrant for arrest shall not issue for an offense charged in the appearance ticket until a sworn complaint is filed with the magistrate.

(2) A district court magistrate may accept a plea of guilty upon an appearance ticket, without the necessity of a sworn complaint, for those offenses within his jurisdiction as prescribed by section 8511 of Act No. 236 of the Public Acts of 1961, as amended, being section 600.8511 of the Compiled Laws of 1948.

History: Add. 1970, Act 147, Imd. Eff. Sept. 1, 1970

764.10-764.12 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's Notes: The repealed sections pertained to recognizance for appearance, certification to bail, and insufficient bail.

764.13 Arrest without warrant; taking arrested person before magistrate of judicial district in which offense charged to have been committed; complaint.

Sec. 13.

A peace officer who has arrested a person for an offense without a warrant shall without unnecessary delay take

the person arrested before a magistrate of the judicial district in which the offense is charged to have been committed, and shall present to the magistrate a complaint stating the charge against the person arrested.

History: Add. 1964, Act 58, Eff. Aug. 28, 1964 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

Compiler's Notes: Former MCL 764.13, pertaining to the taking of persons arrested without warrants before a magistrate without unnecessary delay, was repealed by Act 44 of 1961.

764.14 Arrest by private person; disposition of arrested person; complaint.

Sec. 14.

A private person who has made an arrest shall without unnecessary delay deliver the person arrested to a peace officer, who shall without unnecessary delay take that person before a magistrate of the judicial district in which the offense is charged to have been committed. The peace officer or private person shall present to the magistrate a complaint stating the charge against the person arrested.

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17148 ;-- CL 1948, 764.14 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

764.15 Arrest by officer without warrant; situations; circumstances.

Sec. 15.

- (1) A peace officer, without a warrant, may arrest a person in any of the following situations:
 - (a) A felony, misdemeanor, or ordinance violation is committed in the peace officer's presence.
 - (b) The person has committed a felony although not in the peace officer's presence.
 - (c) A felony in fact has been committed and the peace officer has reasonable cause to believe the person committed it.
 - (d) The peace officer has reasonable cause to believe a misdemeanor punishable by imprisonment for more than 92 days or a felony has been committed and reasonable cause to believe the person committed it.
 - (e) The peace officer has received positive information by written, telegraphic, teletypic, telephonic, radio, electronic, or other authoritative source that another peace officer or a court holds a warrant for the person's arrest.
 - (f) The peace officer has received positive information broadcast from a recognized police or other governmental radio station, or teletype, that affords the peace officer reasonable cause to believe a misdemeanor punishable by imprisonment for more than 92 days or a felony has been committed and reasonable cause to believe the person committed it.
 - (g) The peace officer has reasonable cause to believe the person is an escaped convict, has violated a condition of parole from a prison, has violated a condition of a pardon granted by the executive, or has violated 1 or more conditions of a conditional release order or probation order imposed by a court of this state, another state, Indian tribe, or United States territory.
 - (h) The peace officer has reasonable cause to believe the person was, at the time of an accident in this state, the operator of a vehicle involved in the accident and was operating the vehicle in violation of section 625(1), (3), (6), or (7) or section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, or a local ordinance substantially corresponding to section 625(1), (3), (6), or (7) or section 625m of that act.
 - (i) The person is found in the driver's seat of a vehicle parked or stopped on a highway or street within this state if any part of the vehicle intrudes into the roadway and the peace officer has reasonable cause to believe the person was operating the vehicle in violation of section 625(1), (3), (6), or (7) or section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, or a local ordinance substantially corresponding to section 625(1), (3), (6), or (7) or section 625m of that act.
 - (j) The peace officer has reasonable cause to believe the person was, at the time of an accident, the operator of a snowmobile involved in the accident and was operating the snowmobile in violation of section 82127(1) or (3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82127, or a local ordinance substantially corresponding to section 82127(1) or (3) of that act.
 - (k) The peace officer has reasonable cause to believe the person was, at the time of an accident, the operator of an ORV involved in the accident and was operating the ORV in violation of section 81134(1) or (2) or 81135 of

the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 and 324.81135, or a local ordinance substantially corresponding to section 81134(1) or (2) or 81135 of that act.

(l) The peace officer has reasonable cause to believe the person was, at the time of an accident, the operator of a vessel involved in the accident and was operating the vessel in violation of section 80176(1) or (3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, or a local ordinance substantially corresponding to section 80176(1) or (3) of that act.

(m) The peace officer has reasonable cause to believe a violation of section 356c or 356d of the Michigan penal code, 1931 PA 328, MCL 750.356c and 750.356d, has taken place or is taking place and reasonable cause to believe the person committed or is committing the violation, regardless of whether the violation was committed in the peace officer's presence.

(n) The peace officer has reasonable cause to believe a misdemeanor has taken place or is taking place on school property and reasonable cause to believe the person committed or is committing the violation, regardless of whether the violation was committed in the peace officer's presence. As used in this subdivision, "school property" means that term as defined in section 7410 of the public health code, 1978 PA 368, MCL 333.7410.

(2) An officer in the United States customs service or the immigration and naturalization service, without a warrant, may arrest a person if all of the following circumstances exist:

(a) The officer is on duty.

(b) One or more of the following situations exist:

(i) The person commits an assault or an assault and battery punishable under section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, on the officer.

(ii) The person commits an assault or an assault and battery punishable under section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, on any other person in the officer's presence or commits any felony.

(iii) The officer has reasonable cause to believe a felony has been committed and reasonable cause to believe the person committed it, and the reasonable cause is not founded on a customs search.

(iv) The officer has received positive information by written, telegraphic, teletypic, telephonic, radio, electronic, or other authoritative source that a peace officer or a court holds a warrant for the person's arrest.

(c) The officer has received training in the laws of this state equivalent to the training provided for an officer of a local police agency under the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616.

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17149 ;-- Am. 1935, Act 84, Imd. Eff. May 27, 1935 ;-- CL 1948, 764.15 ;-- Am. 1978, Act 23, Imd. Eff. Feb. 21, 1978 ;-- Am. 1978, Act 384, Eff. Aug. 1, 1978 ;-- Am. 1980, Act 400, Eff. Mar. 31, 1981 ;-- Am. 1982, Act 311, Eff. Mar. 30, 1983 ;-- Am. 1988, Act 19, Eff. June 1, 1988 ;-- Am. 1996, Act 81, Imd. Eff. Feb. 27, 1996 ;-- Am. 1996, Act 490, Eff. Apr. 1, 1997 ;-- Am. 1999, Act 269, Eff. July 1, 2000 ;-- Am. 2000, Act 208, Eff. Aug. 21, 2000 ;-- Am. 2001, Act 212, Eff. Apr. 1, 2002

764.15a Arrest without warrant for assault of individual having child in common, household resident, dating relationship, or spouse or former spouse.

Sec. 15a.

A peace officer may arrest an individual for violating 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 regardless of whether the peace officer has a warrant or whether the violation was committed in his or her presence if the peace officer has or receives positive information that another peace officer has reasonable cause to believe both of the following:

(a) The violation occurred or is occurring.

(b) The individual has had a child in common with the victim, resides or has resided in the same household as the victim, has or has had a dating relationship with the victim, or is a spouse or former spouse of the victim. As used in this subdivision, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

History: Add. 1978, Act 316, Imd. Eff. July 10, 1978 ;-- Am. 1980, Act 471, Eff. Mar. 31, 1981 ;-- Am. 1994, Act 66, Eff. July 1, 1994 ;-- Am. 1996, Act 138, Imd. Eff. Mar. 21, 1996 ;-- Am. 1999, Act 269, Eff. July 1, 2000 ;-- Am. 2001, Act 208, Eff. Apr. 1, 2002

764.15b Arrest without warrant for violation of personal protection order; answering to charge of contempt; hearing; bond; show cause order; jurisdiction to conduct contempt proceedings; prosecution of criminal contempt; prohibited actions by court; definitions.

Sec. 15b.

(1) A peace officer, without a warrant, may arrest and take into custody an individual when the peace officer has or receives positive information that another peace officer has reasonable cause to believe all of the following apply:

(a) A personal protection order has been issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or is a valid foreign protection order.

(b) The individual named in the personal protection order is violating or has violated the order. An individual is violating or has violated the order if that individual commits 1 or more of the following acts the order specifically restrains or enjoins the individual from committing:

(i) Assaulting, attacking, beating, molesting, or wounding a named individual.

(ii) Removing minor children from an individual having legal custody of the children, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction.

(iii) Entering onto premises.

(iv) Engaging in conduct prohibited under section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i.

(v) Threatening to kill or physically injure a named individual.

(vi) Purchasing or possessing a firearm.

(vii) Interfering with petitioner's efforts to remove petitioner's children or personal property from premises that are solely owned or leased by the individual to be restrained or enjoined.

(viii) Interfering with petitioner at petitioner's place of employment or education or engaging in conduct that impairs petitioner's employment or educational relationship or environment.

(ix) Any other act or conduct specified by the court in the personal protection order.

(c) If the personal protection order was issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, the personal protection order states on its face that a violation of its terms subjects the individual to immediate arrest and either of the following:

(i) If the individual restrained or enjoined is 18 years of age or older, to criminal contempt of court and, if found guilty of criminal contempt, to imprisonment for not more than 93 days and to a fine of not more than \$500.00.

(ii) If the individual restrained or enjoined is less than 18 years of age, to the dispositional alternatives listed in section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18.

(2) An individual arrested under this section must be brought before the family division of the circuit court having jurisdiction in the cause within 24 hours after arrest to answer to a charge of contempt for violating the personal protection order, at which time the court shall do each of the following:

(a) Set a time certain for a hearing on the alleged violation of the personal protection order. The hearing must be held within 72 hours after arrest, unless extended by the court on the motion of the arrested individual or the prosecuting attorney.

(b) Set a reasonable bond pending a hearing of the alleged violation of the personal protection order.

(c) Notify the prosecuting attorney of the criminal contempt proceeding.

(d) Notify the party who procured the personal protection order and his or her attorney of record, if any, and direct the party to appear at the hearing and give evidence on the charge of contempt.

(3) In circuits in which the circuit court judge may not be present or available within 24 hours after arrest, an individual arrested under this section must be taken before the district court within 24 hours after arrest, at which time the district court shall set bond and order the defendant to appear before the family division of circuit court in the county for a hearing on the charge. If the district court will not be open within 24 hours after arrest, a judge or district court magistrate shall set bond and order the defendant to appear before the circuit court in the county for a hearing on the charge.

(4) If a criminal contempt proceeding for violation of a personal protection order is not initiated by an arrest under this section but is initiated as a result of a show cause order or other process or proceedings, the court shall do all of the following:

(a) Notify the party who procured the personal protection order and his or her attorney of record, if any, and direct the party to appear at the hearing and give evidence on the contempt charge.

(b) Notify the prosecuting attorney of the criminal contempt proceeding.

(5) The family division of circuit court in each county of this state has jurisdiction to conduct contempt proceedings based upon a violation of a personal protection order described in this section issued by the circuit court in any county of this state or upon a violation of a valid foreign protection order. The court of arraignment shall notify the court that issued the personal protection order or foreign protection order that the issuing court may request that the defendant be returned to that court for violating the personal protection order or foreign protection

order. If the court that issued the personal protection order or foreign protection order requests that the defendant be returned to that court to stand trial, the county of the requesting court shall bear the cost of transporting the defendant to that county.

(6) The family division of circuit court has jurisdiction to conduct contempt proceedings based upon a violation of a personal protection order issued under section 2(h) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, by the family division of circuit court in any county of this state or a valid foreign protection order issued against a respondent who is less than 18 years of age at the time of the alleged violation of the foreign protection order in this state. The family division of circuit court that conducts the preliminary inquiry shall notify the court that issued the personal protection order or foreign protection order that the issuing court may request that the respondent be returned to that county for violating the personal protection order or foreign protection order. If the court that issued the personal protection order or foreign protection order requests that the respondent be returned to that court to stand trial, the county of the requesting court shall bear the cost of transporting the respondent to that county.

(7) The prosecuting attorney shall prosecute a criminal contempt proceeding initiated by the court under subsection (2) or initiated by a show cause order under subsection (4), unless the party who procured the personal protection order retains his or her own attorney for the criminal contempt proceeding or the prosecuting attorney determines that the personal protection order was not violated or that it would not be in the interest of justice to prosecute the criminal contempt violation. If the prosecuting attorney prosecutes the criminal contempt proceeding, the court shall grant an adjournment for not less than 14 days or a lesser period requested if the prosecuting attorney moves for adjournment. If the prosecuting attorney prosecutes the criminal contempt proceeding, the court may dismiss the proceeding upon motion of the prosecuting attorney for good cause shown.

(8) A court shall not rescind a personal protection order, dismiss a contempt proceeding based on a personal protection order, or impose any other sanction for a failure to comply with a time limit prescribed in this section.

(9) As used in this section:

(a) "Foreign protection order" means that term as defined in section 2950h of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950h.

(b) "Personal protection order" means a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, and, unless the context indicates otherwise, includes a valid foreign protection order.

(c) "Valid foreign protection order" means a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i.

History: Add. 1980, Act 471, Eff. Mar. 31, 1981 ;-- Am. 1983, Act 230, Imd. Eff. Nov. 28, 1983 ;-- Am. 1992, Act 251, Eff. Jan. 1, 1993 ;-- Am. 1994, Act 59, Eff. July 1, 1994 ;-- Am. 1994, Act 62, Eff. July 1, 1994 ;-- Am. 1994, Act 418, Eff. Apr. 1, 1995 ;-- Am. 1996, Act 15, Eff. June 1, 1996 ;-- Am. 1998, Act 475, Eff. Mar. 1, 1999 ;-- Am. 1999, Act 269, Eff. July 1, 2000 ;-- Am. 2001, Act 209, Eff. Apr. 1, 2002 ;-- Am. 2019, Act 112, Eff. Oct. 1, 2021

764.15c Investigation or intervention in domestic violence dispute; providing victim with notice of rights; address confidentiality program; report; retention and filing of report; development of standard domestic violence incident report form; definitions.

Sec. 15c.

(1) After investigating or intervening in a domestic violence incident, a peace officer shall provide the victim with a copy of the notice in this section.

(2) The notice under subsection (1) must be written and, subject to subsection (3), must include all of the following:

(a) The name and telephone number of the responding police agency.

(b) The name and badge number of the responding peace officer.

(c) Substantially the following statement:

"You may obtain a copy of the police incident report for your case by contacting this law enforcement agency at the telephone number provided.

The domestic violence shelter program and other resources in your area are (include local information).

Information about emergency shelter, counseling services, and the legal rights of domestic violence victims is available from these resources.

Your legal rights include the right to go to court and file a petition requesting a personal protection order to

protect you or other members of your household from domestic abuse which could include restraining or enjoining the abuser from doing the following:

- (a) Entering onto premises.
- (b) Assaulting, attacking, beating, molesting, or wounding you.
- (c) Threatening to kill or physically injure you or another person.
- (d) Removing minor children from you, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction.
- (e) Engaging in stalking behavior.
- (f) Purchasing or possessing a firearm.
- (g) Interfering with your efforts to remove your children or personal property from premises that are solely owned or leased by the abuser.
- (h) Interfering with you at your place of employment or education or engaging in conduct that impairs your employment relationship or your employment or educational environment.
- (i) Engaging in any other specific act or conduct that imposes upon or interferes with your personal liberty or that causes a reasonable apprehension of violence.
- (j) Having access to information in records concerning any minor child you have with the abuser that would inform the abuser about your address or telephone number, the child's address or telephone number, or your employment address.
- (k) Injuring, killing, torturing, neglecting, removing, or retaining an animal in which you have an ownership interest to cause you mental distress or to exert control over you.
- (l) Threatening to injure, kill, torture, or neglect an animal in which you have an ownership interest to cause you mental distress or to exert control over you.

Your legal rights also include the right to go to court and file a motion for an order to show cause and a hearing if the abuser is violating or has violated a personal protection order and has not been arrested."

(3) Once the department of the attorney general develops and implements the address confidentiality program as provided in section 19(4) of the address confidentiality program act, the statement in the written notice under subsection (2)(c) must also include substantially the following statement:

"If you change your residence and would like to keep your new address confidential, you may apply to the department of the attorney general for certification as a program participant in the address confidentiality program."

(4) The peace officer shall prepare a domestic violence report after investigating or intervening in a domestic violence incident. A peace officer shall use the standard domestic violence incident report form developed under subsection (6) or a form substantially similar to that standard form to report a domestic violence incident. The report must contain, but is not limited to containing, all of the following:

- (a) The address, date, and time of the incident being investigated.
- (b) The victim's name, address, home and work telephone numbers, race, sex, and date of birth.
- (c) The suspect's name, address, home and work telephone numbers, race, sex, date of birth, and information describing the suspect and whether an injunction or restraining order covering the suspect exists.
- (d) The name, address, home and work telephone numbers, race, sex, and date of birth of any witness, including a child of the victim or suspect, and the relationship of the witness to the suspect or victim.
- (e) The following information about the incident being investigated:
 - (i) The name of the person who called the law enforcement agency.
 - (ii) The relationship of the victim and suspect.
 - (iii) Whether alcohol or controlled substance use was involved in the incident, and by whom it was used.
 - (iv) A brief narrative describing the incident and the circumstances that led to it.
 - (v) Whether and how many times the suspect physically assaulted the victim and a description of any weapon or object used.
 - (vi) A description of all injuries sustained by the victim and an explanation of how the injuries were sustained.
 - (vii) If the victim sought medical attention, information concerning where and how the victim was transported, whether the victim was admitted to a hospital or clinic for treatment, and the name and telephone number of the attending physician.
 - (viii) A description of any property damage reported by the victim or evident at the scene.
 - (f) A description of any previous domestic violence incidents between the victim and the suspect.
 - (g) The date and time of the report and the name, badge number, and signature of the peace officer completing the report.

(5) The law enforcement agency shall retain the completed domestic violence report in its files. The law enforcement agency shall also file a copy of the completed domestic violence report with the prosecuting attorney within 48 hours after the domestic violence incident is reported to the law enforcement agency.

(6) By June 1, 2002, the department of state police shall develop a standard domestic violence incident report form.

(7) As used in this section:

- (a) "Address confidentiality program" means the program created in the address confidentiality program act.

(b) "Dating relationship" means that term as defined in section 2950 of the revised judiciary act of 1961, 1961 PA 236, MCL 600.2950.

(c) "Domestic violence incident" means an incident reported to a law enforcement agency involving allegations of 1 or both of the following:

(i) A violation of a personal protection order issued under section 2950 of the revised judiciary act of 1961, 1961 PA 236, MCL 600.2950, or a violation of a valid foreign protection order.

(ii) A crime committed by an individual against his or her spouse or former spouse, an individual with whom he or she has had a child in common, an individual with whom he or she has or has had a dating relationship, or an individual who resides or has resided in the same household.

(d) "Foreign protection order" means that term as defined in section 2950h of the revised judiciary act of 1961, 1961 PA 236, MCL 600.2950h.

(e) "Program participant" means that term as defined in section 3 of the address confidentiality program act.

(f) "Valid foreign protection order" means a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judiciary act of 1961, 1961 PA 236, MCL 600.2950i.

History: Add. 1985, Act 222, Eff. Mar. 31, 1986 ;-- Am. 1994, Act 60, Eff. July 1, 1994 ;-- Am. 1994, Act 63, Eff. July 1, 1994 ;-- Am. 1994, Act 418, Eff. Apr. 1, 1995 ;-- Am. 1996, Act 15, Eff. June 1, 1996 ;-- Am. 1998, Act 475, Eff. Mar. 1, 1999 ;-- Am. 1999, Act 269, Eff. July 1, 2000 ;-- Am. 2001, Act 207, Eff. Apr. 1, 2002 ;-- Am. 2001, Act 210, Eff. Apr. 1, 2002 ;-- Am. 2020, Act 275, Imd. Eff. Dec. 29, 2020

764.15d Federal law enforcement officer; powers.

Sec. 15d.

(1) A federal law enforcement officer may enforce state law to the same extent as a state or local officer only if all of the following conditions are met:

(a) The officer is authorized under federal law to arrest a person, with or without a warrant, for a violation of a federal statute.

(b) The officer is authorized by federal law to carry a firearm in the performance of his or her duties.

(c) One or more of the following apply:

(i) The officer possesses a state warrant for the arrest of the person for the commission of a felony.

(ii) The officer has received positive information from an authoritative source, in writing or by telegraph, telephone, teletype, radio, computer, or other means, that another federal law enforcement officer or a peace officer possesses a state warrant for the arrest of the person for the commission of a felony.

(iii) The officer is participating in a joint investigation conducted by a federal agency and a state or local law enforcement agency.

(iv) The officer is acting pursuant to the request of a state or local law enforcement officer or agency.

(v) The officer is responding to an emergency.

(2) Except as otherwise provided in subsection (3), a federal law enforcement officer who meets the requirements of subsection (1) has the privileges and immunities of a peace officer of this state.

(3) This section does not impose liability upon or require indemnification by the state or a local unit of government for an act performed by a federal law enforcement officer under this section.

(4) As used in this section:

(a) "Emergency" means a sudden or unexpected circumstance that requires immediate action to protect the health, safety, welfare, or property of an individual from actual or threatened harm or from an unlawful act.

(b) "Local unit of government" means a county, city, village, or township.

History: Add. 1987, Act 256, Imd. Eff. Dec. 28, 1987 ;-- Am. 1999, Act 64, Eff. Oct. 1, 1999

764.15e Violation of condition of release; arrest without warrant; duties of peace officer; release on interim bond; priority to certain cases; hearing and revocation procedures.

Sec. 15e.

(1) A peace officer, without a warrant, may arrest and take into custody a defendant whom the peace officer has or receives positive information that another peace officer has reasonable cause to believe is violating or has violated a condition of release imposed under section 6b of chapter V or section 2a of 1961 PA 44, MCL 780.582a.

(2) If a peace officer arrests a defendant under subsection (1), the peace officer shall do all of the following:

(a) Prepare a complaint of violation of conditional release substantially in the following format:

COMPLAINT OF VIOLATION OF
CONDITIONAL RELEASE

I _____ am a peace officer. I have determined by:

(name)

L.E.I.N. and verification with the police
agency holding the order

Certified or true copy of order

Other (Describe)

That _____ released _____ subject to the
(court) following
(name of
defendant)

conditions:

(state or attach a statement of relevant
conditions)

I have reasonable cause to believe that on _____ at _____ the
(date) (time)

defendant violated those conditions as
follows:

(state violations)

(Signature)

(Date)

(b) If the arrest occurred within the judicial district of the court that imposed the conditions of release, both of the following:

(i) Immediately provide 1 copy of the complaint to the defendant, the original and 1 copy of the complaint to that court, and 1 copy of the complaint to the prosecuting attorney for the case in which the conditional release was granted. The law enforcement agency shall retain 1 copy of the complaint.

(ii) Bring the defendant before that court within 1 business day following the defendant's arrest to answer the charge of violating the conditions of release.

(c) If the arrest occurred outside the judicial district of the court that imposed the conditions of release, both of the following:

(i) Immediately provide 1 copy of the complaint to the defendant, and the original and 1 copy of the complaint to the district court or municipal court in the judicial district in which the violation occurred. The law enforcement agency shall retain 1 copy of the complaint.

(ii) Bring the defendant before the district court or municipal court in the judicial district in which the violation occurred within 1 business day following the arrest. The court shall determine conditions of release and promptly transfer the case to the court that released the defendant subject to conditions. The court to which the case is transferred shall notify the prosecuting attorney in writing of the alleged violation.

(3) If, in the opinion of the arresting police agency or officer in charge of the jail, it is safe to release the defendant before the defendant is brought before the court under subsection (2), the arresting police agency or officer in charge of the jail may release the defendant on interim bond of not more than \$500.00 requiring the defendant to appear at the opening of court the next business day. If the defendant is held for more than 24 hours without being brought before the court under subsection (2), the officer in charge of the jail shall note in the jail records why it was not safe to release the defendant on interim bond under this subsection.

(4) The court shall give priority to cases brought under this section in which the defendant is in custody or in which the defendant's release would present an unusual risk to the safety of any person.

(5) The hearing and revocation procedures for cases brought under this section shall be governed by Supreme court rules.

764.15f Violation of order issued by probate court or family division of circuit court; arrest without warrant; duties of police officer and court; authority of judge to arraign, take plea, or sentence; judge not available; entering order into or removing from law enforcement information network.

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) of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.13a of the Michigan Compiled Laws, stating on its face the period of time for which the order is valid.

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

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

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

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

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

(a) Prepare a complaint of violation of the order substantially in the following format:

COMPLAINT OF VIOLATION OF CHILD PROTECTIVE
ORDER

I am a peace officer. I have determined
by:

(name)

L.E.I.N. and verification with the police agency holding the order

Certified or true copy of order

Other (Describe)

That

family division of circuit court ordered

(county)

(name)

NOT TO ENTER THE FOLLOWING PREMISES:

I have reasonable cause to believe that on at

(date) (time)

the person subject to the order violated the order as follows:

(state violations)

(Signature of officer)

(Date)

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

(3) A person arrested pursuant to this section shall be brought before the family division of circuit court having jurisdiction in the cause within 24 hours after arrest to answer to a charge of contempt for violation of the order, at which time the court shall do each of the following:

(a) Set a time certain for a hearing on the alleged violation of the order. The hearing shall be conducted within 72 hours after arrest, unless extended by the court on the motion of the arrested person.

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

(c) Notify the person having custody of the child under section 13a(4) of chapter XIIA of Act No. 288 of the Public Acts of 1939 and direct that person to appear at the hearing and give evidence on the charge of contempt.

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

(5) If a judge of the family division of circuit court is not present or available within 24 hours after arrest, a

person arrested under this section shall be taken before the district court within 24 hours after arrest, at which time the district court shall order the defendant to appear before the family division of circuit court that entered or has jurisdiction over the order for a hearing on the charge. The district court shall set bond for the person.

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

(7) If an order entered under section 13a(4) of chapter XIIA of Act No. 288 of the Public Acts of 1939 is rescinded, the court shall immediately order the law enforcement agency to remove the order from the law enforcement information network.

History: Add. 1993, Act 113, Imd. Eff. July 20, 1993 ;-- Am. 1996, Act 418, Eff. Jan. 1, 1998

764.15g Determination that person arrested is parolee; notice to department of corrections; compliance.

Sec. 15g.

(1) When a person is arrested and taken into custody with or without a warrant as allowed under this chapter, the peace officer who made the arrest, the law enforcement agency employing that officer, or a central dispatch service for the law enforcement agency shall promptly use the law enforcement information network to determine whether the person arrested is a parolee under the jurisdiction of the department of corrections. If the person arrested is a parolee, the peace officer who made the arrest, the law enforcement agency employing that officer, or a central dispatch service for the law enforcement agency shall promptly give to the department of corrections, by telephonic or electronic means, notice of all of the following:

(a) The identity of the person arrested.

(b) The fact that information in databases managed by the department of corrections and accessible by the law enforcement information network provides reason to believe the person arrested is a parolee under the jurisdiction of the department of corrections.

(c) The charge or charges for which the person was arrested.

(2) The requirement to give notice to the department of corrections under subsection (1) is complied with if the notice is transmitted to any of the following:

(a) The department by a central toll-free telephone number that is designated by the department for that purpose and that is in operation 24 hours a day and is posted in the department's database of information concerning the status of parolees.

(b) A parole agent serving the county where the arrest occurred.

(c) The supervisor of the parole office serving the county where the arrest occurred.

History: Add. 2006, Act 543, Imd. Eff. Dec. 29, 2006

764.15h Investigation of financial neglect, abuse or harm of a vulnerable adult or elder adult; definitions.

Sec. 15h.

(1) After responding to an incident involving alleged physical abuse of a vulnerable adult or elder adult, a peace officer may also investigate for financial neglect, abuse, or harm.

(2) As used in this section:

(a) "Elder adult" means an adult who is 65 years of age or older.

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

History: Add. 2018, Act 617, Eff. Mar. 28, 2019

764.16 Arrest by private person; situations.

Sec. 16.

A private person may make an arrest—in the following situations:

- (a) For a felony committed in the private person's presence.
- (b) If the person to be arrested has committed a felony although not in the private person's presence.
- (c) If the private person is summoned by a peace officer to assist the officer in making an arrest.
- (d) If the private person is a merchant, an agent of a merchant, an employee of a merchant, or an independent contractor providing security for a merchant of a store and has reasonable cause to believe that the person to be arrested has violated section 356c or 356d of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.356c and 750.356d of the Michigan Compiled Laws, in that store, regardless of whether the violation was committed in the presence of the private person.

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17150 ;-- CL 1948, 764.16 ;-- Am. 1988, Act 19, Eff. June 1, 1988

764.17 Arrest; time.

Sec. 17.

An arrest may be made on any day at any time of the day or night.

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17151 ;-- CL 1948, 764.17

764.18 Arrest; under warrant; duty of officer.

Sec. 18.

Where an arrest is made under a warrant, it shall not be necessary for the arresting officer personally to have the warrant in his possession but such officer must, if possible, inform the person arrested that there is a warrant for his arrest and, after the arrest is made, shall show such person said warrant if required, as soon as practicable.

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17152 ;-- CL 1948, 764.18

764.19 Arrest; without warrant; officer, duties; return as evidence.

Sec. 19.

When arresting a person, without a warrant, the officer making the arrest shall inform the person arrested of his authority and the cause of the arrest, except when the person arrested is engaged in the commission of a criminal offense, or if he flees or if he forcibly resists arrest before the officer has time to inform him. The return of the officer making the arrest, endorsed upon the warrant upon which the accused person shall be subsequently held, affirming compliance with the provisions herein, shall be prima facie evidence of the fact in the trial of any criminal cause.

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17153 ;-- CL 1948, 764.19

764.20 Arrest; private persons, duty.

Sec. 20.

A private person, before making an arrest, shall inform the person to be arrested of the intention to arrest him and the cause of the arrest, except when he is then engaged in the commission of a criminal offense, or if he flees or forcibly resists arrest before the person making the arrest has opportunity so to inform him.

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17154 ;-- CL 1948, 764.20

764.21 Right to break open inner or outer door.

Sec. 21.

A private person, when making an arrest for a felony committed in his or her presence, or a peace officer or federal law enforcement officer, when making an arrest with a warrant or when making a felony arrest without a warrant as authorized by law, may break open an inner or outer door of a building in which the person to be arrested is located or is reasonably believed to be located if, after announcing his or her purpose, he or she is refused admittance.

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17155 ;-- CL 1948, 764.21 ;-- Am. 1987, Act 256, Imd. Eff. Dec. 28, 1987

764.22 Right to break open door or window.

Sec. 22.

A peace officer, a federal law enforcement officer, or a private person who has lawfully entered a building for the purpose of making an arrest and is detained in the building, may break open a door or window of the building if necessary to escape from the building. A peace officer or federal law enforcement officer may break open a door or window of a building if necessary to liberate a person who lawfully entered the building for the purpose of making an arrest and is detained in the building.

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17156 ;-- CL 1948, 764.22 ;-- Am. 1987, Act 256, Imd. Eff. Dec. 28, 1987

764.23 Escape from custody or from state correctional facility; pursuit and retaking or arrest without warrant; definition.

Sec. 23.

(1) If a person who has been lawfully arrested escapes or is rescued, the person from whose custody he or she escaped or was rescued may immediately pursue and retake him or her at any time and in any place within the state without a warrant.

(2) If a prisoner escapes from a state correctional facility, or willfully fails to remain within the extended limits of his or her confinement as prescribed in section 65a of 1953 PA 232, MCL 791.265a, the prisoner may be pursued and arrested, without a warrant, by a person who is either of the following:

(a) An employee of the department of corrections who is designated by the director of the department of

corrections as having the authority to pursue and arrest escaped prisoners.

(b) An employee of a private vendor that operates a youth correctional facility under section 20g of 1953 PA 232, MCL 791.20g, if that employee meets the same criteria established by the director of the department of corrections for departmental employees described in subdivision (a).

(3) As used in this section, "state correctional facility" means any facility that houses prisoners committed to the jurisdiction of the department of corrections, including a prison, reformatory, camp, community corrections center, halfway house, resident home, or a youth correctional facility operated by the department of corrections or a private vendor under section 20g of 1953 PA 232, MCL 791.232.

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17157 ;-- CL 1948, 764.23 ;-- Am. 1988, Act 137, Imd. Eff. June 1, 1988 ;-- Am. 1998, Act 511, Imd. Eff. Jan. 8, 1999

764.23a Trespass upon state correctional facility; violation; arrest without warrant; "state correctional facility" defined.

Sec. 23a.

(1) A person who trespasses upon a state correctional facility in violation of section 552b of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.552b of the Michigan Compiled Laws, may be arrested without a warrant by any employee of the department of corrections whom the director of the department of corrections designates as having authority to arrest those persons.

(2) As used in this section, "state correctional facility" means a facility or institution that houses a prisoner population under the jurisdiction of the department of corrections. State correctional facility does not include a community corrections center or a community residential home.

History: Add. 1996, Act 230, Eff. Jan. 1, 1997

764.24 Arrest; escape or rescue; means of recapture.

Sec. 24.

To retake the person escaping or rescued, the person pursuing may use the same means to retake as are authorized for an arrest.

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17158 ;-- CL 1948, 764.24

764.25 Arrest; weapons and articles on prisoner; seizure, disposal.

Sec. 25.

Any person making an arrest shall take from the person arrested, all offensive weapons or incriminating articles which he may have about his person and must deliver them to the sheriff of the county, chief of police of the city or to the magistrate before whom he is taken.

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17159 ;-- CL 1948, 764.25

764.25a Strip search.

Sec. 25a.

(1) As used in this section, "strip search" means a search which requires a person to remove his or her clothing to expose underclothing, breasts, buttocks, or genitalia.

(2) A person arrested or detained for a misdemeanor offense, or an offense which is punishable only by a civil fine shall not be strip searched unless both of the following occur:

(a) The person arrested is being lodged into a detention facility by order of a court or there is reasonable cause to believe that the person is concealing a weapon, a controlled substance, or evidence of a crime.

(b) The strip search is conducted by a person who has obtained prior written authorization from the chief law enforcement officer of the law enforcement agency conducting the strip search, or from that officer's designee; or if the strip search is conducted upon a minor in a juvenile detention facility which is not operated by a law enforcement agency, the strip search is conducted by a person who has obtained prior written authorization from the chief administrative officer of that facility, or from that officer's designee.

(3) A strip search conducted under this section shall be performed by a person of the same sex as the person being searched and shall be performed in a place that prevents the search from being observed by a person not conducting or necessary to assist with the search. A law enforcement officer who assists in the strip search shall be of the same sex as the person being searched.

(4) If a strip search is conducted under this section, the arresting officer shall prepare a report of the strip search. The report shall include the following information:

(a) The name and sex of the person subjected to the strip search.

(b) The name and sex of the person conducting the strip search.

(c) The name and sex of a person who assists in conducting the strip search.

(d) The time, date, and place of the strip search.

(e) The justification for conducting a strip search.

(f) A list of all items recovered from the person who was strip searched.

(g) A copy of the written authorization required under subsection (2)(b).

(5) A copy of the report required by subsection (4) shall be given without cost to the person who has been searched, subject to deletions permitted by section 13 of the freedom of information act, 1976 PA 442, MCL 15.243.

(6) A law enforcement officer, any employee of the law enforcement agency, or a chief administrative officer or employee of a juvenile detention facility who conducts or authorizes a strip search in violation of this section is guilty of a misdemeanor.

(7) This section shall not apply to the strip search of a person lodged in a detention facility by an order of a court or in a state correctional facility housing prisoners under the jurisdiction of the department of corrections, including a youth correctional facility operated by the department of corrections or a private vendor under section 20g of 1953 PA 232, MCL 791.220g.

History: Add. 1979, Act 185, Eff. Mar. 27, 1980 ;-- Am. 1983, Act 92, Eff. Mar. 29, 1984 ;-- Am. 1999, Act 65, Imd. Eff. June 24, 1999

764.25b Body cavity search.

Sec. 25b.

(1) As used in this section:

(a) "Body cavity" means the interior of the human body not visible by normal observation, being the stomach or rectal cavity of a person and the vagina of a female person.

(b) "Body cavity search" means a physical intrusion into a body cavity for the purpose of discovering any object concealed in a body cavity.

(2) Except as otherwise provided in this section, a search of a body cavity shall not be conducted without a valid search warrant.

(3) Subsection (2) does not apply to a body cavity search of a person who is any of the following:

(a) A person serving a sentence for a criminal offense in a detention facility or a state correctional facility housing prisoners under the jurisdiction of the department of corrections, including a youth correctional facility operated by the department of corrections or a private vendor under section 20g of 1953 PA 232, MCL 791.220g.

(b) A person who, as a result of an order by a court, is lodged in an inpatient facility operated by or under contract with the department of community health or a county community mental health board, if the person is self-

abusive and the search is necessary for his or her protection.

(c) A person who, as the result of a dispositional order entered after adjudication by the juvenile division of probate court before January 1, 1998 or by the family division of the circuit court on or after January 1, 1998, is residing in a juvenile detention facility.

(4) If any of the circumstances described in subsection (3)(a), (b), or (c) applies, a search of a body cavity shall not be conducted unless the person conducting the search has obtained prior written authorization from the chief administrative officer of the facility or from that officer's designee.

(5) A body cavity search shall be conducted by a licensed physician or a physician's assistant, licensed practical nurse, or registered professional nurse acting with the approval of a licensed physician. If the body cavity search is conducted by a person of the opposite sex as the person being searched, the search shall be conducted in the presence of a person of the same sex as the person being searched.

(6) If a body cavity search is conducted under a valid search warrant, the law enforcement officer who executes the warrant required under subsection (2) shall prepare a report containing all of the following:

- (a) A copy of the search warrant required under subsection (2).
- (b) The name and sex of the person searched, if not contained in the warrant.
- (c) The name of the person who conducted the search.
- (d) The time, date, and place of the search.
- (e) A list of all items recovered from the person who was searched.
- (f) The name and sex of all law enforcement officers or employees of the law enforcement agency present at the search.

(7) If a body cavity search is conducted under subsections (3) and (4), the personnel authorized to conduct the body cavity search shall prepare a report containing all of the following:

- (a) A copy of the written authorization required under subsection (4).
- (b) The name and sex of the person searched, if not contained in the written authorization.
- (c) The name of the person who conducted the search.
- (d) The time, date, and place of the search.
- (e) A list of all items recovered from the person who was searched.
- (f) The name and sex of all personnel present at the search.

(8) A copy of the report required by subsection (6) or (7) shall be given without cost to the person who has been searched, subject to deletions permitted by section 13 of the freedom of information act, 1976 PA 442, MCL 15.243.

(9) A law enforcement officer, an employee of the law enforcement agency, or the chief administrative officer or personnel of a facility described in subsection (3) who conducts or authorizes a body cavity search in violation of this section is guilty of a misdemeanor.

History: Add. 1979, Act 185, Eff. Mar. 27, 1980 ;-- Am. 1983, Act 92, Eff. Mar. 29, 1984 ;-- Am. 1996, Act 418, Eff. Jan. 1, 1998 ;-- Am. 1999, Act 65, Imd. Eff. June 24, 1999

764.25c Repealed. 1983, Act 92, Eff. Mar. 29, 1984.

Compiler's Notes: The repealed section pertained to the applicability of MCL 764.25a and 764.25b.

764.26 Arrest; rights of alleged felon.

Sec. 26.

Every person charged with a felony shall, without unnecessary delay after his arrest, be taken before a magistrate or other judicial officer and, after being informed as to his rights, shall be given an opportunity publicly to make any statement and answer any questions regarding the charge that he may desire to answer.

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17160 ;-- CL 1948, 764.26

764.26a Dismissal of charges before trial; requirements; receipt of order.

Sec. 26a.

(1) If an individual is arrested for any crime and the charge or charges are dismissed before trial, both of the following apply:

(a) The arrest record shall be removed from the internet criminal history access tool (ICHAT).

(b) If the prosecutor of the case agrees at any time after the case is dismissed, or if the prosecutor of the case or the judge of the court in which the case was filed does not object within 60 days from the date an order of dismissal was entered for cases in which the order of dismissal is entered after the effective date of the amendatory act that added this section, all of the following apply:

(i) The arrest record, all biometric data, and fingerprints shall be expunged or destroyed, or both, as appropriate.

(ii) Any entry concerning the charge shall be removed from LEIN.

(iii) Unless a DNA sample or profile, or both, is allowed or required to be retained by the department of state police under section 6 of the DNA identification profiling system act, 1990 PA 250, MCL 28.176, the DNA sample or profile, or both, obtained from the individual shall be expunged or destroyed.

(2) The department of state police shall comply with the requirements listed in subsection (1) upon receipt of an appropriate order of the district court or the circuit court.

History: Add. 2018, Act 65, Eff. June 12, 2018

764.27 Arrest of child less than 18 years of age; procedure.

Sec. 27.

Except as otherwise provided in section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606, if a child less than 18 years of age is arrested, with or without a warrant, the child must be taken immediately before the family division of circuit court of the county where the offense is alleged to have been committed, and the officer making the arrest shall immediately make and file, or cause to be made and filed, a petition against the child as provided in chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32. Except as otherwise provided in section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606, if during the pendency of a criminal case against a child in a court in this state it is ascertained that the child is less than 18 years of age, the court shall immediately transfer the case, together with all papers connected with the case, to the family division of circuit court of the county where the offense is alleged to have been committed. If a child 14 years of age or older is charged with a felony, the judge of probate, after investigation and examination and upon motion of the prosecuting attorney, may waive jurisdiction under section 4 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.4. If jurisdiction is waived, the child may be tried in the court having general criminal jurisdiction of the offense.

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17161 ;-- Am. 1931, Act 309, Eff. Sept. 18, 1931 ;-- CL 1948, 764.27 ;-- Am. 1958, Act 212, Eff. Sept. 13, 1958 ;-- Am. 1972, Act 44, Imd. Eff. Feb. 19, 1972 ;-- Am. 1988, Act 67, Eff. Oct. 1, 1988 ;-- Am. 1996, Act 255, Eff. Jan. 1, 1997 ;-- Am. 1996, Act 418, Eff. Jan. 1, 1998 ;-- Am. 2019, Act 103, Eff. Oct. 1, 2021

Compiler's Notes: Section 3 of Act 67 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 173 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

Former Law: See section 6 of Act 6 of 1907 (Ex. Sess.); Act 308 of 1915; CL 1915, § 2016; and Act 105 of 1923.

764.27a Juvenile taken into custody or detained; prohibitions; confinement of juvenile in county jail; other confinement; credit for time served.

Sec. 27a.

(1) A juvenile, other than a juvenile confined under subsection (3), must not be confined in a police station, prison, jail, lock-up, or reformatory, or be transported with, or compelled or permitted to associate or mingle with, criminal persons while awaiting trial.

(2) A juvenile, other than a juvenile confined under subsection (3), whose habits or conduct are considered to be a menace to other children, or who may not otherwise be safely detained, may be ordered by a court to be placed in a jail or other place of detention for adults, but in a room or ward out of sight and sound from adults.

(3) A juvenile or individual less than 18 years of age who is under the jurisdiction of the circuit court for committing a felony may be confined in the county jail pending trial. An individual less than 18 years of age who is under the jurisdiction of the probate court for committing a felony may be held in the county jail pending trial if the case is designated by the court under section 2d of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d, as a case in which the individual is to be tried in the same manner as an adult and the court has determined that there is probable cause to believe that the felony was committed and that there is probable cause to believe the individual committed that felony. If a juvenile or individual less than 18 years of age is confined in the county jail under this subsection, the juvenile or individual less than 18 years of age must be held physically separate from adult prisoners. A juvenile or individual less than 18 years of age must not be confined in the county jail under this subsection without the prior approval of the county sheriff. As used in this subsection, "felony" means a crime that is designated by law as a felony or that is punishable by imprisonment for more than 1 year.

(4) The court, upon motion of a juvenile or individual less than 18 years of age who is subject to confinement under subsection (3) may, for good cause shown, order the juvenile or individual less than 18 years of age to be confined as otherwise provided by law.

(5) If a person is convicted of a crime within this state and has served time in a juvenile facility before sentencing because of being denied or being unable to furnish bond for the offense of which he or she is convicted, the trial court in imposing sentence shall specifically grant credit against the sentence for time served in a juvenile facility before sentencing.

History: Add. 1988, Act 67, Eff. Oct. 1, 1988 ;-- Am. 1996, Act 254, Eff. Jan. 1, 1997 ;-- Am. 2019, Act 105, Eff. Oct. 1, 2021

Compiler's Notes: Section 3 of Act 67 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 173 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

764.28 Failure of person under recognizance or appeal to appear; forfeiture; issuing process for arrest of appellant or defendant.

Sec. 28.

If a person under recognizance on an appeal from a conviction and judgment of a magistrate does not appear according to the condition of the recognizance, and the recognizance is forfeited by reason of the breach of that condition, and the forfeiture is entered on the record by order of the court having jurisdiction of the case, that court may issue a *capias* or other process for the arrest of the appellant or defendant named in the recognizance, to bring the appellant or defendant before the court.

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17162 ;-- CL 1948, 764.28 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

Former Law: See section 2 of Act 209 of 1861, being CL 1871, § 7962; How., § 9575; CL 1897, § 11959; and CL 1915, § 15832.

764.29 Fingerprints.

Sec. 29.

(1) At the time of arraignment of a person on a complaint for a felony or a misdemeanor punishable by imprisonment for more than 92 days, the magistrate shall examine the court file to determine if the person has had fingerprints taken as required by section 3 of Act No. 289 of the Public Acts of 1925, being section 28.243 of the

Michigan Compiled Laws.

(2) If the person has not had his or her fingerprints taken prior to the time of arraignment for the felony or the misdemeanor punishable by imprisonment for more than 92 days, upon completion of the arraignment, the magistrate shall do either of the following:

(a) Order the person to submit himself or herself to the police agency that arrested or obtained the warrant for the arrest of the person so that the person's fingerprints can be taken.

(b) Order the person committed to the custody of the sheriff for the taking of the person's fingerprints.

History: Add. 1986, Act 232, Eff. June 1, 1987