

[No. 194]

(HB 5304)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 22 of chapter XVI (MCL 776.22), as amended by 1994 PA 418.

The People of the State of Michigan enact:

CHAPTER XVI

776.22 Domestic violence calls; development, implementation, and evaluation of written policies and standards by police agencies; definitions.

Sec. 22. (1) Each police agency in this state shall, by January 1, 1995, develop, adopt, and implement written policies for police officers responding to domestic violence calls. The policies shall reflect that domestic violence is criminal conduct.

(2) Each police agency shall consult with the prosecuting attorney and with an area shelter for victims of domestic violence in the development, implementation, including training, and evaluation of the policies and standards.

(3) The policies shall address, but not be limited to addressing, all of the following:

(a) Procedures for conducting a criminal investigation with specific standards for misdemeanor and felony arrests.

(b) Procedures for making a criminal arrest. The procedures shall emphasize all of the following:

(i) In most circumstances, an officer should arrest and take an individual into custody if the officer has probable cause to believe the individual is committing or has committed domestic violence and his or her actions constitute a crime.

2001 PUBLIC AND LOCAL ACTS

(ii) When the officer has probable cause to believe spouses, former spouses, individuals who have had a child in common, or other individuals who reside together or formerly resided together are committing or have committed crimes against each other, the officer, when determining whether to make an arrest of 1 or both individuals, should consider the intent of this section to protect victims of domestic violence, the degree of injury inflicted on the individuals involved, the extent to which the individuals have been put in fear of physical injury to themselves or other members of the household, and any history of domestic violence between the individuals, if that history can reasonably be ascertained by the officer. In addition, the officer should not arrest an individual if the officer has reasonable cause to believe the individual was acting in lawful self-defense or in lawful defense of another individual.

(iii) A police officer's decision as to whether to arrest an individual should not be based solely on the consent of the victim to any subsequent prosecution or on the relationship of the individuals involved in the incident.

(iv) A police officer's decision not to arrest an individual should not be based solely upon the absence of visible indications of injury or impairment.

(c) Procedures for denial of interim bond, as provided in 1961 PA 44, MCL 780.581 to 780.588.

(d) Procedures for verifying 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.

(e) Procedures for making an arrest for a violation of a personal protection order.

(f) Procedures for enforcing a valid foreign protection order.

(g) Procedures for providing or arranging for emergency assistance to victims including, but not limited to, medical care, transportation to a shelter, or remaining at the scene of an alleged incident of domestic violence for a reasonable time until, in the reasonable judgment of the police officer, the likelihood of further imminent violence has been eliminated.

(h) Procedures for informing the victim of community services and legal options that are available pursuant to section 15c of chapter IV of this act.

(i) Procedures for preparing a written report, whether or not an arrest is made.

(j) Training of peace officers, dispatchers, and supervisors.

(k) Discipline for noncompliance with the policy.

(l) Annual evaluations of the policy.

(4) The local policies developed, adopted, and implemented pursuant to this section shall be in writing and shall be available to the public upon request.

(5) 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) "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.

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2002.

2001 PUBLIC AND LOCAL ACTS

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

- (a) Senate Bill No. 729.
- (b) Senate Bill No. 753.
- (c) Senate Bill No. 754.
- (d) Senate Bill No. 757.
- (e) Senate Bill No. 758.
- (f) House Bill No. 5275.
- (g) House Bill No. 5299.
- (h) House Bill No. 5300.
- (i) House Bill No. 5303.

This act is ordered to take immediate effect.

Approved December 27, 2001.

Filed with Secretary of State December 27, 2001.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:

Senate Bill No. 729 was filed with the Secretary of State December 27, 2001, and became P.A. 2001, No. 206, Eff. Apr. 1, 2002.
Senate Bill No. 753 was filed with the Secretary of State December 27, 2001, and became P.A. 2001, No. 209, Eff. Apr. 1, 2002.
Senate Bill No. 754 was filed with the Secretary of State December 27, 2001, and became P.A. 2001, No. 210, Eff. Apr. 1, 2002.
Senate Bill No. 757 was filed with the Secretary of State December 27, 2001, and became P.A. 2001, No. 211, Eff. Apr. 1, 2002.
Senate Bill No. 758 was filed with the Secretary of State December 27, 2001, and became P.A. 2001, No. 212, Eff. Apr. 1, 2002.
House Bill No. 5275 was filed with the Secretary of State December 27, 2001, and became P.A. 2001, No. 197, Eff. Apr. 1, 2002.
House Bill No. 5299 was filed with the Secretary of State December 27, 2001, and became P.A. 2001, No. 200, Eff. Apr. 1, 2002.
House Bill No. 5300 was filed with the Secretary of State December 27, 2001, and became P.A. 2001, No. 201, Eff. Apr. 1, 2002.
House Bill No. 5303 was filed with the Secretary of State December 27, 2001, and became P.A. 2001, No. 202, Eff. Apr. 1, 2002.
