

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 559**

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 1 of chapter I and sections 1e, 9c, and 9f of
chapter IV (MCL 761.1, 764.1e, 764.9c, and 764.9f), section 1 of
chapter I as amended by 1998 PA 520, section 1e of chapter IV as
added by 1980 PA 506, section 9c of chapter IV as amended by 1984
PA 366, and section 9f of chapter IV as amended by 1998 PA 264;
and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER I

2

Sec. 1. As used in this act:

3

(a) "Person", "accused", or a similar word means an individ-

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ual or, unless a contrary intention appears, a public or private

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corporation, partnership, or unincorporated or voluntary

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association.

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1 (b) "Act" or "doing of an act" includes "omission to act".

2 (c) "Property" includes any matter or thing upon or in
3 respect to which an offense may be committed.

4 (d) "Indictment" means 1 or more of the following:

5 (i) An indictment.

6 (ii) An information.

7 (iii) A presentment.

8 (iv) A complaint.

9 (v) A warrant.

10 (vi) A formal written accusation.

11 (vii) Unless a contrary intention appears, a count contained
12 in any document described in subparagraphs (i) through (vi).

13 (e) "Writing", "written", or a similar term refers to words
14 printed, painted, engraved, lithographed, photographed, copied,
15 traced, or otherwise made visible to the eye.

16 (f) "Magistrate" means a judge of the district court or a
17 judge of a municipal court. Magistrate does not include a dis-
18 trict court magistrate, except that a district court magistrate
19 may exercise the powers, jurisdiction, and duties of a magistrate
20 if specifically provided in this act, the revised judicature act
21 of 1961, 1961 PA 236, MCL 600.101 to 600.9948, or any other
22 statute. This definition does not limit the power of a justice
23 of the supreme court, a circuit judge, or a judge of a court of
24 record having jurisdiction of criminal cases under this act, or
25 deprive him or her of the power to exercise the authority of a
26 magistrate.

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1 (g) "Felony" means a violation of a penal law of this state
2 for which the offender, upon conviction, may be punished by death
3 or by imprisonment for more than 1 year or an offense expressly
4 designated by law to be a felony.

5 (h) "Misdemeanor" means a violation of a penal law of this
6 state that is not a felony or a violation of an order, rule, or
7 regulation of a state agency that is punishable by imprisonment
8 or a fine that is not a civil fine.

9 (j) "Ordinance violation" means either of the following:

10 (i) A violation of an ordinance or charter of a city, vil-
11 lage, township, or county that is punishable by imprisonment or a
12 fine that is not a civil fine.

13 (ii) A violation of an ordinance, rule, or regulation of any
14 other governmental entity authorized by law to enact ordinances,
15 rules, or regulations that is punishable by imprisonment or a
16 fine that is not a civil fine.

17 (k) "Minor offense" means a misdemeanor or ordinance viola-
18 tion for which the maximum permissible imprisonment does not
19 exceed 92 days and the maximum permissible fine does not exceed
20 ~~-\$500.00 and includes a violation described in section 9f(2) of~~
21 ~~chapter IV for which the maximum permissible penalty does not~~
22 ~~exceed 92 days in jail and a fine \$1,000.00.~~

23 (l) "Prosecuting attorney" means the prosecuting attorney
24 for a county, an assistant prosecuting attorney for a county, the
25 attorney general, the deputy attorney general, an assistant
26 attorney general, a special prosecuting attorney, or, in
27 connection with the prosecution of an ordinance violation, an

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1 attorney for the political subdivision or governmental entity
2 that enacted the ordinance, charter, rule, or regulation upon
3 which the ordinance violation is based.

4 (m) "Judicial district" means the following:

5 (i) With regard to the circuit court, the county.

6 (ii) With regard to municipal courts, the city in which the
7 municipal court functions or the village served by a municipal
8 court under section 9928 of the revised judicature act of 1961,
9 1961 PA 236, MCL 600.9928.

10 (iii) With regard to the district court, the county, dis-
11 trict, or political subdivision in which venue is proper for
12 criminal actions.

13 (n) "Complaint" means a written accusation, under oath or
14 upon affirmation, that a felony, misdemeanor, or ordinance viola-
15 tion has been committed and that the person named or described in
16 the accusation is guilty of the offense.

17 (o) "Clerk" means the clerk or a deputy clerk of the court.

18 (p) "Federal law enforcement officer" means an officer or
19 agent employed by a law enforcement agency of the United States
20 government whose primary responsibility is enforcing laws of the
21 United States.

22 (q) "Jail", "prison", or a similar word includes a juvenile
23 facility in which a juvenile has been placed pending trial under
24 section 27a of chapter IV.

25 (r) "Juvenile" means a person within the jurisdiction of the
26 circuit court under section 606 of the revised judicature act of
27 1961, 1961 PA 236, MCL 600.606.

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1 (s) "Juvenile facility" means a county facility, institution
2 operated as an agency of the county or family division of circuit
3 court, or an institution or agency described in the youth reha-
4 bilitation services act, 1974 PA 150, MCL 803.301 to 803.309, to
5 which a juvenile has been committed under section 27a of chapter
6 IV.

7 (t) "County juvenile agency" means that term as defined in
8 section 2 of the county juvenile agency act.

9 (u) "Taken", "brought", or "before" a magistrate or judge
10 for purposes of criminal arraignment or the setting of bail means
11 either of the following:

12 (i) Physical presence before a judge or district court
13 magistrate.

14 (ii) Presence before a judge or district court magistrate by
15 use of 2-way closed circuit television.

16 CHAPTER IV

17 Sec. 1e. (1) For purposes of sections 1a to 1d of this
18 chapter, a complaint signed by a peace officer shall be treated
19 as made under oath if the offense alleged in the complaint is a
20 ~~minor offense which~~ MISDEMEANOR OR ORDINANCE VIOLATION FOR
21 WHICH THE MAXIMUM PERMISSIBLE PENALTY DOES NOT EXCEED 93 DAYS IN
22 JAIL OR A FINE, OR BOTH, THAT was committed in the signing
23 officer's presence or THAT was committed under circumstances per-
24 mitting the officer's issuance of a citation under section ~~625-~~
25 625A or 728(8) of ~~Act No. 300 of the Public Acts of 1949, as~~
26 ~~amended, being sections 257.625 and 257.728 of the Michigan~~
27 ~~Compiled Laws~~ THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL

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1 257.625A AND 257.728, and if the complaint contains the following
2 statement immediately above the date and signature of the
3 officer:

4 "I declare under the penalties of perjury that the state-
5 ments above are true to the best of my information, knowledge,
6 and belief."

7 (2) A peace officer who, knowing the statement is false,
8 makes a materially false statement in a complaint signed
9 ~~pursuant to~~ UNDER subsection (1) is guilty of perjury, a felony
10 punishable by imprisonment for not more than 15 years, and in
11 addition, is in contempt of court.

12 Sec. 9c. (1) ~~If~~ EXCEPT AS PROVIDED IN SUBSECTION (3), IF
13 a police officer has arrested a person without a warrant for a
14 ~~minor offense~~ MISDEMEANOR OR ORDINANCE VIOLATION FOR WHICH THE
15 MAXIMUM PERMISSIBLE PENALTY DOES NOT EXCEED 93 DAYS IN JAIL OR A
16 FINE, OR BOTH, instead of taking the person before a magistrate
17 and promptly filing a complaint as provided in section 13 of this
18 chapter, the officer may issue to and serve upon the person an
19 appearance ticket as defined in section 9f of this chapter AND
20 RELEASE THE PERSON FROM CUSTODY.

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

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1 (3) AN APPEARANCE TICKET SHALL NOT BE ISSUED TO ANY OF THE
2 FOLLOWING:

3 (A) A PERSON ARRESTED FOR A VIOLATION OF SECTION 81 OR 81A
4 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.81 AND 750.81A,
5 OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO SECTION 81 OF
6 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.81, IF THE VICTIM
7 OF THE ASSAULT IS THE OFFENDER'S SPOUSE, FORMER SPOUSE, AN INDI-
8 VIDUAL WHO HAS HAD A CHILD IN COMMON WITH THE OFFENDER, OR AN
9 INDIVIDUAL RESIDING OR HAVING RESIDED IN THE SAME HOUSEHOLD AS
10 THE OFFENDER.

11 (B) A PERSON SUBJECT TO DETAINMENT FOR VIOLATING A PERSONAL
12 PROTECTION ORDER.

13 (C) A PERSON SUBJECT TO A MANDATORY PERIOD OF CONFINEMENT,
14 CONDITION OF BOND, OR OTHER CONDITION OF RELEASE UNTIL HE OR SHE
15 HAS SERVED THAT PERIOD OF CONFINEMENT OR MEETS THAT REQUIREMENT
16 OF BOND OR OTHER CONDITION OF RELEASE.

17 Sec. 9f. (1) As used in sections ~~9a~~ 9c to 9g, "appearance
18 ticket" means a complaint or written notice issued and subscribed
19 by a police officer or other public servant authorized by law or
20 ordinance to issue it ~~,~~ directing a designated person to appear
21 in a designated local criminal court at a designated future time
22 in connection with his or her alleged commission of a designated
23 violation or violations of state law or local ordinance for which
24 ~~, except as otherwise provided in subsection (2),~~ the maximum
25 permissible penalty does not exceed ~~90~~ 93 days in jail ~~and~~ OR
26 a fine, ~~of \$500.00~~ OR BOTH. The appearance tickets shall be
27 numbered consecutively, be in ~~such~~ A form ~~as determined~~

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1 REQUIRED by the attorney general, the state court administrator,
2 and the director of the department of state police, and ~~shall~~
3 consist of the following parts:

4 (a) The original which shall be a complaint or notice to
5 appear by the officer and filed with the court.

6 (b) The first copy which shall be the abstract of court
7 record.

8 (c) The second copy which shall be retained by the local
9 enforcement agency.

10 (d) The third copy which shall be delivered to the alleged
11 violator.

12 ~~(2) An appearance ticket may be issued for a misdemeanor~~
13 ~~violation of 1 of the following acts for which the maximum per-~~
14 ~~missible penalty does not exceed 92 days in jail and a fine:~~

15 ~~(a) Part 487 of the natural resources and environmental pro-~~
16 ~~tection act, 1994 PA 451, MCL 324.48701 to 324.48740.~~

17 ~~(b) Part 401 of the natural resources and environmental pro-~~
18 ~~tection act, 1994 PA 451, MCL 324.40101 to 324.40119.~~

19 ~~(c) The personal watercraft safety act, 1998 PA 116,~~
20 ~~MCL 281.1401 to 281.1445.~~

21 (2) ~~(3)~~ With the prior approval of the state officials
22 listed in subsection (1), an appearance ticket may be appropri-
23 ately modified as to content or number of copies to accommodate
24 law enforcement and local court procedures and practices.

25 Enacting section 1. Section 9b of chapter IV of the code of
26 criminal procedure, 1927 PA 175, MCL 764.9b, is repealed.

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1 Enacting section 2. This amendatory act takes effect
2 October 1, 1999.

3 Enacting section 3. This amendatory act does not take
4 effect unless all of the following bills of the 90th Legislature
5 are enacted into law:

- 6 (a) Senate Bill No. 556.
- 7 (b) Senate Bill No. 557.
- 8 (c) Senate Bill No. 558.
- 9 (d) Senate Bill No. 560.
- 10 (e) House Bill No. 4580.
- 11 (f) House Bill No. 4581.
- 12 (g) House Bill No. 4582.
- 13 (h) House Bill No. 4583.
- 14 (i) House Bill No. 4584.
- 15 (j) House Bill No. 4585.