

REPRINT

**SUBSTITUTE FOR
SENATE BILL NO. 838**

(As Passed the Senate November 4, 1999)

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
(MCL 750.1 to 750.568) by adding section 227g.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 227G. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SEC-
2 TION, A PERSON WHO HAS BEEN CONVICTED OF A VIOLENT FELONY SHALL
3 NOT PURCHASE, OWN, POSSESS, OR USE BODY ARMOR.
4 (2) A PERSON WHO HAS BEEN CONVICTED OF A VIOLENT FELONY
5 WHOSE EMPLOYMENT, LIVELIHOOD, OR SAFETY IS DEPENDENT ON HIS OR
6 HER ABILITY TO PURCHASE, OWN, POSSESS, OR USE BODY ARMOR MAY
7 PETITION THE CHIEF OF POLICE OF THE LOCAL UNIT OF GOVERNMENT IN
8 WHICH HE OR SHE RESIDES OR, IF HE OR SHE DOES NOT RESIDE IN A
9 LOCAL UNIT OF GOVERNMENT THAT HAS A POLICE DEPARTMENT, THE COUNTY
10 SHERIFF, FOR WRITTEN PERMISSION TO PURCHASE, OWN, POSSESS, OR USE
11 BODY ARMOR UNDER THIS SECTION.

1 (3) THE CHIEF OF POLICE OF A LOCAL UNIT OF GOVERNMENT OR THE
2 COUNTY SHERIFF MAY GRANT A PERSON WHO PROPERLY PETITIONS THAT
3 CHIEF OF POLICE OR COUNTY SHERIFF UNDER SUBSECTION (2) WRITTEN
4 PERMISSION TO PURCHASE, OWN, POSSESS, OR USE BODY ARMOR AS PRO-
5 VIDED IN THIS SECTION IF THE CHIEF OF POLICE OR COUNTY SHERIFF
6 DETERMINES THAT BOTH OF THE FOLLOWING CIRCUMSTANCES EXIST:

7 (A) THE PETITIONER IS LIKELY TO USE BODY ARMOR IN A SAFE AND
8 LAWFUL MANNER.

9 (B) THE PETITIONER HAS REASONABLE NEED FOR THE PROTECTION
10 PROVIDED BY BODY ARMOR.

11 (4) IN MAKING THE DETERMINATION REQUIRED UNDER SUBSECTION
12 (3), THE CHIEF OF POLICE OR COUNTY SHERIFF SHALL CONSIDER ALL OF
13 THE FOLLOWING:

14 (A) THE PETITIONER'S CONTINUED EMPLOYMENT.

15 (B) THE INTERESTS OF JUSTICE.

16 (C) OTHER CIRCUMSTANCES JUSTIFYING ISSUANCE OF WRITTEN PER-
17 MISSION TO PURCHASE, OWN, POSSESS, OR USE BODY ARMOR.

18 (5) THE CHIEF OF POLICE OR COUNTY SHERIFF MAY RESTRICT WRIT-
19 TEN PERMISSION ISSUED TO A PETITIONER UNDER THIS SECTION IN ANY
20 MANNER DETERMINED APPROPRIATE BY THAT CHIEF OF POLICE OR COUNTY
21 SHERIFF. IF PERMISSION IS RESTRICTED, THE CHIEF OF POLICE OR
22 COUNTY SHERIFF SHALL STATE THE RESTRICTIONS IN THE PERMISSION
23 DOCUMENT.

24 (6) IT IS THE INTENT OF THE LEGISLATURE THAT CHIEFS OF
25 POLICE AND COUNTY SHERIFFS EXERCISE BROAD DISCRETION IN DETERMIN-
26 ING WHETHER TO ISSUE WRITTEN PERMISSION TO PURCHASE, OWN,
27 POSSESS, OR USE BODY ARMOR UNDER THIS SECTION. HOWEVER, NOTHING

1 IN THIS SECTION REQUIRES A CHIEF OF POLICE OR COUNTY SHERIFF TO
2 ISSUE WRITTEN PERMISSION TO ANY PARTICULAR PETITIONER. THE ISSU-
3 ANCE OF WRITTEN PERMISSION TO PURCHASE, OWN, POSSESS, OR USE BODY
4 ARMOR UNDER THIS SECTION DOES NOT RELIEVE ANY PERSON OR ENTITY
5 FROM CRIMINAL LIABILITY THAT MIGHT OTHERWISE BE IMPOSED.

6 (7) A PERSON WHO RECEIVES WRITTEN PERMISSION FROM A CHIEF OF
7 POLICE OR COUNTY SHERIFF TO PURCHASE, OWN, POSSESS, OR USE BODY
8 ARMOR SHALL HAVE THAT WRITTEN PERMISSION IN HIS OR HER POSSESSION
9 WHEN HE OR SHE IS PURCHASING, OWNING, POSSESSING, OR USING BODY
10 ARMOR.

[(8) A LAW ENFORCEMENT AGENCY MAY ISSUE BODY ARMOR TO A PERSON
WHO IS IN CUSTODY OR WHO IS A WITNESS TO A CRIME FOR HIS OR HER OWN
PROTECTION WITHOUT A PETITION BEING PREVIOUSLY FILED UNDER
SUBSECTION (2). IF THE LAW ENFORCEMENT AGENCY ISSUES BODY ARMOR TO
THE PERSON UNDER THIS SUBSECTION, THE LAW ENFORCEMENT AGENCY SHALL
DOCUMENT THE REASONS FOR ISSUING BODY ARMOR AND RETAIN A COPY OF
THAT DOCUMENT AS AN OFFICIAL RECORD. THE LAW ENFORCEMENT AGENCY
SHALL ALSO ISSUE WRITTEN PERMISSION TO THE PERSON TO POSSESS AND USE
BODY ARMOR UNDER THIS SECTION.]

11 [(9)] A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CRIME
12 AS FOLLOWS:

13 (A) FOR A VIOLATION OF SUBSECTION (1), THE PERSON IS GUILTY
14 OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4 YEARS
15 OR A FINE OF NOT MORE THAN \$2,000.00, OR BOTH.

16 (B) FOR A VIOLATION OF SUBSECTION (7), THE PERSON IS GUILTY
17 OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 93
18 DAYS OR A FINE OF NOT MORE THAN \$100.00, OR BOTH.

19 [(10)] AS USED IN THIS SECTION:

20 (A) "BODY ARMOR" MEANS THAT TERM AS DEFINED IN SECTION
21 227F.

22 (B) "VIOLENT FELONY" MEANS THAT TERM AS DEFINED IN SECTION
23 36 OF 1953 PA 232, MCL 791.236.

24 [Enacting section 1. This amendatory act takes effect October
25 1, 2000.

Enacting section 2. This amendatory act does not take effect
unless House Bill No. 5311 of the 90th Legislature is enacted into
law.]