

# SENATE BILL No. 132

February 6, 2001, Introduced by Senators JOHNSON, HAMMERSTROM and BULLARD  
and referred to the Committee on Judiciary.

A bill to amend 1961 PA 44, entitled

"An act to provide for the release of misdemeanor prisoners by giving bond to the arresting officer in certain circumstances not inconsistent with public safety; and to repeal certain acts and parts of acts,"

by amending sections 1 and 2a (MCL 780.581 and 780.582a), section 1 as amended and section 2a as added by 1990 PA 308.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. (1) If a person is arrested without a warrant for a  
2 misdemeanor or a violation of a city, village, or township ordi-  
3 nance, and the misdemeanor or violation is punishable by impris-  
4 onment for not more than 1 year, or by a fine, or both, the offi-  
5 cer making the arrest shall take, without unnecessary delay, the  
6 person arrested before the most convenient magistrate of the  
7 county in which the offense was committed to answer to the  
8 complaint.

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1       (2) Except as otherwise provided in section 2a, if a  
2 magistrate is not available or immediate trial cannot be had, the  
3 person arrested may deposit with the arresting officer or the  
4 direct supervisor of the arresting officer or department, or with  
5 the sheriff or a deputy in charge of the county jail if the  
6 person arrested is lodged in the county jail, an interim bond to  
7 guarantee his or her appearance. The bond shall be a sum of  
8 money, as determined by the officer who accepts the bond, not to  
9 exceed the amount of the maximum possible fine but not less than  
10 20% of the amount of the minimum possible fine that may be  
11 imposed for the offense for which the person was arrested. The  
12 person shall be given a receipt as provided in section 3.

13       (3) ~~If,~~ IF A PERSON IS ARRESTED FOR A MISDEMEANOR VIOLA-  
14 TION OF SECTION 625 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300,  
15 MCL 257.625, OR A VIOLATION OF A LOCAL ORDINANCE THAT SUBSTAN-  
16 Tially CORRESPONDS TO SECTION 625 OF THE MICHIGAN VEHICLE CODE,  
17 1949 PA 300, MCL 257.625, OR IF in the opinion of the arresting  
18 officer or department ~~—~~ the arrested person is under the influ-  
19 ence of intoxicating liquor or a controlled substance, or a com-  
20 bination of intoxicating liquor and a controlled substance, is  
21 wanted by police authorities to answer to another charge, is  
22 unable to establish or demonstrate his or her identity, or it is  
23 otherwise unsafe to release him or her, the arrested person shall  
24 be held at the place specified in subsection (4) until he or she  
25 is in a proper condition to be released, or until the next ses-  
26 sion of court.

1       (4) For purposes of subsection (3), if the person is  
 2 arrested in a political subdivision that has a holding cell,  
 3 holding center, or lockup, the person shall be held in that hold-  
 4 ing cell, holding center, or lockup. However, if that holding  
 5 facility is at capacity then the person may be held in a holding  
 6 cell, holding center, or lockup willing to accept the prisoner.  
 7 If the person is arrested in a political subdivision that does  
 8 not have a holding cell, holding center, or lockup, the person  
 9 shall be held in a holding cell, holding center, or lockup will-  
 10 ing to accept the prisoner or in the county jail. As used in  
 11 this subsection, "political subdivision" means a city, village,  
 12 or township.

13       Sec. 2a. (1) A person shall not be released on an interim  
 14 bond as provided in section 1 or on his or her own recognizance  
 15 as provided in section 3a, but shall be held until he or she can  
 16 be ~~brought before a magistrate for arraignment as required under~~  
 17 ~~section 1 or 2 or, if a magistrate is not available or immediate~~  
 18 ~~trial cannot be held within 24 hours, the person shall be held~~  
 19 ~~for 20 hours, after which the person may be released on an~~  
 20 ~~interim bond as provided in section 1 or on his or her own recog-~~  
 21 ~~nizance as provided in section 3a,~~ ARRAIGNED OR HAVE INTERIM  
 22 BOND SET BY A JUDGE OR DISTRICT COURT MAGISTRATE if either of the  
 23 following applies:

24       (a) The person is arrested without a warrant under  
 25 section 15a of chapter IV of the code of criminal procedure, ~~Act~~  
 26 ~~No. 175 of the Public Acts of 1927, being section 764.15a of the~~  
 27 ~~Michigan Compiled Laws 1927 PA 175, MCL 764.15A, or a city,~~

1 ~~village, or township~~ LOCAL ordinance substantially corresponding  
2 to that section.

3 (b) The person is arrested with a warrant for a violation of  
4 section 81 or 81a of the Michigan penal code, ~~Act No. 328 of the~~  
5 ~~Public Acts of 1931, being sections 750.81 and 750.81a of the~~  
6 ~~Michigan Compiled Laws~~ 1931 PA 328, MCL 750.81 AND 750.81A, or a  
7 ~~city, village, or township~~ LOCAL ordinance substantially corre-  
8 sponding to section 81 ~~or 81a~~ of ~~Act No. 328 of the Public~~  
9 ~~Acts of 1931,~~ THAT ACT and the person is a spouse ~~, a~~ OR  
10 former spouse ~~,~~ OF THE VICTIM OF THE VIOLATION, A PERSON WHO  
11 HAS HAD A CHILD IN COMMON WITH THE VICTIM OF THE VIOLATION, or a  
12 person who resides or has resided in the same household as the  
13 victim of the violation.

14 (2) IF A JUDGE OR DISTRICT COURT MAGISTRATE SETS INTERIM  
15 BOND UNDER THIS SECTION, THE PERSON SHALL ONLY BE RELEASED  
16 SUBJECT TO THE CONDITION THAT HE OR SHE SHALL NOT HAVE OR ATTEMPT  
17 TO HAVE CONTACT OF ANY KIND WITH THE VICTIM.

18 (3) IF A JUDGE OR DISTRICT COURT MAGISTRATE RELEASES UNDER  
19 THIS SECTION A PERSON SUBJECT TO PROTECTIVE CONDITIONS, THE JUDGE  
20 OR DISTRICT COURT MAGISTRATE SHALL INFORM THE PERSON ON THE  
21 RECORD, EITHER ORALLY OR BY A WRITING THAT IS PERSONALLY DELIV-  
22 ERED TO THE PERSON, OF THE SPECIFIC CONDITIONS IMPOSED AND THAT  
23 IF THE PERSON VIOLATES A CONDITION OF RELEASE, HE OR SHE WILL BE  
24 SUBJECT TO ARREST WITHOUT A WARRANT AND MAY HAVE HIS OR HER BOND  
25 FORFEITED OR REVOKED AND NEW CONDITIONS OF RELEASE IMPOSED, IN  
26 ADDITION TO ANY OTHER PENALTIES THAT MAY BE IMPOSED IF HE OR SHE  
27 IS FOUND IN CONTEMPT OF COURT.

1 (4) AN ORDER OR AMENDED ORDER ISSUED UNDER SUBSECTION (3)  
2 SHALL CONTAIN ALL OF THE FOLLOWING:

3 (A) A STATEMENT OF THE PERSON'S FULL NAME.

4 (B) A STATEMENT OF THE PERSON'S HEIGHT, WEIGHT, RACE, SEX,  
5 DATE OF BIRTH, HAIR COLOR, EYE COLOR, AND ANY OTHER IDENTIFYING  
6 INFORMATION THE JUDGE OR DISTRICT COURT MAGISTRATE CONSIDERS  
7 APPROPRIATE.

8 (C) A STATEMENT OF THE DATE THE CONDITIONS BECOME  
9 EFFECTIVE.

10 (D) A STATEMENT OF THE DATE ON WHICH THE ORDER WILL EXPIRE.

11 (E) A STATEMENT OF THE CONDITIONS IMPOSED, INCLUDING, BUT  
12 NOT LIMITED TO, THE CONDITION PRESCRIBED IN SUBSECTION (3).

13 (5) THE JUDGE OR DISTRICT COURT MAGISTRATE SHALL IMMEDIATELY  
14 DIRECT A LAW ENFORCEMENT AGENCY WITHIN THE JURISDICTION OF THE  
15 COURT, IN WRITING, TO ENTER AN ORDER OR AMENDED ORDER ISSUED  
16 UNDER SUBSECTION (3) INTO THE LAW ENFORCEMENT INFORMATION NETWORK  
17 AS PROVIDED BY THE L.E.I.N. POLICY COUNCIL ACT OF 1974, 1974 PA  
18 163, MCL 28.211 TO 28.216. IF THE ORDER OR AMENDED ORDER IS  
19 RESCINDED, THE JUDGE OR DISTRICT COURT MAGISTRATE SHALL IMMEDI-  
20 ATELY ORDER THE LAW ENFORCEMENT AGENCY TO REMOVE THE ORDER OR  
21 AMENDED ORDER FROM THE LAW ENFORCEMENT INFORMATION NETWORK.

22 (6) A LAW ENFORCEMENT AGENCY WITHIN THE JURISDICTION OF THE  
23 COURT SHALL IMMEDIATELY ENTER AN ORDER OR AMENDED ORDER INTO THE  
24 LAW ENFORCEMENT INFORMATION NETWORK AS PROVIDED BY THE  
25 L.E.I.N. POLICY COUNCIL ACT OF 1974, 1974 PA 163, MCL 28.211 TO  
26 28.216, OR SHALL REMOVE THE ORDER OR AMENDED ORDER FROM THE LAW

1 ENFORCEMENT INFORMATION NETWORK UPON EXPIRATION OF THE ORDER OR  
2 AS DIRECTED BY THE COURT UNDER SUBSECTION (5).

3 (7) THIS SECTION DOES NOT LIMIT THE AUTHORITY OF JUDGES OR  
4 DISTRICT COURT MAGISTRATES TO IMPOSE PROTECTIVE OR OTHER RELEASE  
5 CONDITIONS UNDER OTHER APPLICABLE STATUTES OR COURT RULES.

6 Enacting section 1. This amendatory act takes effect  
7 July 1, 2001.