

SUBSTITUTE FOR  
HOUSE BILL NO. 5383

A bill to amend 1927 PA 175, entitled  
"The code of criminal procedure,"  
by amending section 6b of chapter V (MCL 765.6b), as amended by  
2013 PA 54.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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CHAPTER V

Sec. 6b. (1) A judge or district court magistrate may release  
~~under this section~~ a defendant **UNDER THIS SUBSECTION** subject to  
conditions reasonably necessary for the protection of 1 or more  
named persons. If a judge or district court magistrate releases  
~~under this section~~ a defendant **UNDER THIS SUBSECTION** subject to  
protective conditions, the judge or district court magistrate shall  
make a finding of the need for protective conditions and inform the  
defendant on the record, either orally or by a writing that is  
personally delivered to the defendant, of the specific conditions

1 imposed and that if the defendant violates a condition of release,  
2 he or she will be subject to arrest without a warrant and may have  
3 his or her bail forfeited or revoked and new conditions of release  
4 imposed, in addition to the penalty provided under section 3f of  
5 chapter XI and any other penalties that may be imposed if the  
6 defendant is found in contempt of court.

7 (2) An order or amended order issued under subsection (1)  
8 shall contain all of the following:

9 (a) A statement of the defendant's full name.

10 (b) A statement of the defendant's height, weight, race, sex,  
11 date of birth, hair color, eye color, and any other identifying  
12 information the judge or district court magistrate considers  
13 appropriate.

14 (c) A statement of the date the conditions become effective.

15 (d) A statement of the date on which the order will expire.

16 (e) A statement of the conditions imposed.

17 (3) An order or amended order issued under this subsection and  
18 subsection (1) may impose a condition that the defendant not  
19 purchase or possess a firearm. However, if the court orders the  
20 defendant to carry or wear an electronic monitoring device as a  
21 condition of release as described in subsection (6), the court  
22 shall also impose a condition that the defendant not purchase or  
23 possess a firearm.

24 (4) The judge or district court magistrate shall immediately  
25 direct a ~~law enforcement agency within the jurisdiction of the~~  
26 ~~court, in writing, to enter~~ **THAT** an order or amended order issued  
27 under subsection (1) or subsections (1) and (3) **BE ISSUED** into ~~the~~

1 ~~law enforcement information network as provided by the C.J.I.S.~~  
2 ~~policy council act, 1974 PA 163, MCL 28.211 to 28.215.~~ **LEIN. THE**  
3 **ORDER SHALL BE ENTERED INTO THE LEIN EITHER BY THE ISSUING COURT OR**  
4 **BY A LAW ENFORCEMENT AGENCY WITHIN THE JURISDICTION OF THE COURT.**  
5 If the order or amended order is rescinded, the judge or district  
6 court magistrate shall immediately order the **ISSUING COURT OR** law  
7 enforcement agency to remove the order or amended order from ~~the~~  
8 ~~law enforcement information network.~~ **LEIN.**

9 (5) ~~A~~ **THE ISSUING COURT OR A** law enforcement agency within the  
10 jurisdiction of the court shall immediately enter an order or  
11 amended order into ~~the law enforcement information network as~~  
12 ~~provided by the C.J.I.S. policy council act, 1974 PA 163, MCL~~  
13 ~~28.211 to 28.215,~~ **LEIN** or shall remove the order or amended order  
14 from the law enforcement information network upon expiration of the  
15 order or as directed by the court under subsection (4).

16 (6) If a defendant who is charged with a crime involving  
17 domestic violence, or any other assaultive crime, is released under  
18 ~~this section,~~ **SUBSECTION AND SUBSECTION (1)**, the judge or district  
19 court magistrate may order the defendant to wear an electronic  
20 monitoring device as a condition of release. With the informed  
21 consent of the victim, the court may also order the defendant to  
22 provide the victim of the charged crime with an electronic receptor  
23 device capable of receiving the global positioning system  
24 information from the electronic monitoring device worn by the  
25 defendant that notifies the victim if the defendant is located  
26 within a proximity to the victim as determined by the judge or  
27 district court magistrate in consultation with the victim. The

1 victim shall also be furnished with a telephone contact with the  
2 local law enforcement agency to request immediate assistance if the  
3 defendant is located within that proximity to the victim. In  
4 addition, the victim may provide the court with a list of areas  
5 from which he or she would like the defendant excluded. The court  
6 shall consider the victim's request and shall determine which areas  
7 the defendant shall be prohibited from accessing. The court shall  
8 instruct the entity monitoring the defendant's position to notify  
9 the proper authorities if the defendant violates the order. In  
10 determining whether to order a defendant to wear an electronic  
11 monitoring device, the court shall consider the likelihood that the  
12 defendant's participation in electronic monitoring will deter the  
13 defendant from seeking to kill, physically injure, stalk, or  
14 otherwise threaten the victim prior to trial. The victim may  
15 request the court to terminate the victim's participation in the  
16 monitoring of the defendant at any time. The court shall not impose  
17 sanctions on the victim for refusing to participate in monitoring  
18 under this subsection. A defendant described in this subsection  
19 shall only be released ~~under this section~~ if he or she agrees to  
20 pay the cost of the device and any monitoring as a condition of  
21 release or to perform community service work in lieu of paying that  
22 cost. An electronic monitoring device ordered to be worn under this  
23 ~~section~~ **SUBSECTION** shall provide reliable notification of removal  
24 or tampering. As used in this subsection:

25 (a) "Assaultive crime" means that term as defined in section  
26 9a of chapter X.

27 (b) "Domestic violence" means that term as defined in section

1 1 of 1978 PA 389, MCL 400.1501.

2 (c) "Electronic monitoring device" includes any electronic  
3 device or instrument that is used to track the location of an  
4 individual **OR TO MONITOR AN INDIVIDUAL'S BLOOD ALCOHOL CONTENT**, but  
5 does not include any technology that is implanted or violates the  
6 corporeal body of the individual.

7 (d) "Informed consent" means that the victim was given  
8 information concerning all of the following before consenting to  
9 participate in electronic monitoring:

10 (i) The victim's right to refuse to participate in that  
11 monitoring and the process for requesting the court to terminate  
12 the victim's participation after it has been ordered.

13 (ii) The manner in which the monitoring technology functions  
14 and the risks and limitations of that technology, and the extent to  
15 which the system will track and record the victim's location and  
16 movements.

17 (iii) The boundaries imposed on the defendant during the  
18 monitoring program.

19 (iv) Sanctions that the court may impose on the defendant for  
20 violating an order issued under this subsection.

21 (v) The procedure that the victim is to follow if the  
22 defendant violates an order issued under this subsection or if  
23 monitoring equipment fails to operate properly.

24 (vi) Identification of support services available to assist the  
25 victim to develop a safety plan to use if the court's order issued  
26 under this subsection is violated or if the monitoring equipment  
27 fails to operate properly.

1           (vii) Identification of community services available to assist  
2 the victim in obtaining shelter, counseling, education, child care,  
3 legal representation, and other help in addressing the consequences  
4 and effects of domestic violence.

5           (viii) The nonconfidential nature of the victim's communications  
6 with the court concerning electronic monitoring and the  
7 restrictions to be imposed upon the defendant's movements.

8           (7) A JUDGE OR DISTRICT COURT MAGISTRATE MAY RELEASE UNDER  
9 THIS SUBSECTION A DEFENDANT SUBJECT TO CONDITIONS REASONABLY  
10 NECESSARY FOR THE PROTECTION OF THE PUBLIC IF THE DEFENDANT HAS  
11 SUBMITTED TO A PRELIMINARY ROADSIDE ANALYSIS THAT REVEALS THE  
12 PRESENCE OF A CONTROLLED SUBSTANCE OR OTHER INTOXICATING SUBSTANCE.  
13 THE JUDGE OR DISTRICT COURT MAGISTRATE SHALL INFORM THE DEFENDANT  
14 ON THE RECORD, EITHER ORALLY OR BY A WRITING THAT IS PERSONALLY  
15 DELIVERED TO THE DEFENDANT, OF ALL OF THE FOLLOWING:

16           (A) THAT IF THE DEFENDANT IS RELEASED UNDER THIS SUBSECTION,  
17 HE OR SHE SHALL NOT OPERATE A MOTOR VEHICLE UNDER THE INFLUENCE OF  
18 ALCOHOLIC LIQUOR, A CONTROLLED SUBSTANCE, OR ANOTHER INTOXICATING  
19 SUBSTANCE, OR ANY COMBINATION OF THEM, AS A CONDITION OF RELEASE.

20           (B) THAT IF THE DEFENDANT VIOLATES THE CONDITION OF RELEASE  
21 UNDER SUBDIVISION (A), HE OR SHE WILL BE SUBJECT TO ARREST WITHOUT  
22 A WARRANT, SHALL HAVE HIS OR HER BAIL FORFEITED OR REVOKED, AND  
23 SHALL NOT BE RELEASED FROM CUSTODY PRIOR TO ARRAIGNMENT.

24           (8) AN ORDER ISSUED UNDER SUBSECTION (7) SHALL BE ENTERED INTO  
25 THE LEIN EITHER BY THE ISSUING COURT OR BY A LAW ENFORCEMENT AGENCY  
26 WITHIN THE JURISDICTION OF THE COURT.

27           (9) THE COURT OR A LAW ENFORCEMENT AGENCY WITHIN THE

House Bill No. 5383 (H-2) as amended June 3, 2014

1 JURISDICTION OF THE COURT SHALL IMMEDIATELY ENTER AN ORDER OR  
2 AMENDED ORDER INTO LEIN. IF THE ORDER OR AMENDED ORDER IS  
3 RESCINDED, THE COURT OR LAW ENFORCEMENT AGENCY SHALL IMMEDIATELY  
4 REMOVE THE ORDER OR AMENDED ORDER FROM LEIN UPON EXPIRATION OF THE  
5 ORDER UNDER SUBSECTION (8).

6 (10) ~~(7)~~—This section does not limit the authority of judges  
7 or district court magistrates to impose protective or other release  
8 conditions under other applicable statutes or court rules,  
9 including ordering a defendant to wear an electronic monitoring  
10 device.

11 (11) AS USED IN THIS SECTION, "LEIN" MEANS THE LAW ENFORCEMENT  
12 INFORMATION NETWORK REGULATED UNDER THE C.J.I.S. POLICY ACT, 1974  
13 PA 163, MCL 28.211 TO 28.215, OR BY THE DEPARTMENT OF STATE POLICE.

[Enacting section 1. This amendatory act takes effect 90 days after  
the date it is enacted into law.]

14 Enacting section [2]. This amendatory act does not take  
15 effect unless House Bill No. 5385 of the 97th Legislature is  
16 enacted into law.