

**SUBSTITUTE FOR  
SENATE BILL NO. 1046**

A bill to amend 1927 PA 175, entitled  
"The code of criminal procedure,"  
by amending sections 9c and 9f of chapter IV (MCL 764.9c and  
764.9f), section 9c of chapter IV as amended by 2001 PA 208 and  
section 9f of chapter IV as amended by 1999 PA 76.

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

1 CHAPTER IV  
2 Sec. 9c. (1) Except as provided in subsection (3), if a police  
3 officer has arrested a person without a warrant for a misdemeanor  
4 or ordinance violation, ~~for which the maximum permissible penalty~~  
5 ~~does not exceed 93 days in jail or a fine, or both,~~ instead of  
6 taking the person before a magistrate and promptly filing a  
7 complaint as provided in section 13 of this chapter, the officer



1 may issue to and serve upon the person an appearance ticket as  
 2 defined in section 9f of this chapter and release the person from  
 3 custody. **The appearance ticket issued under this section, or other**  
 4 **documentation as requested, must be forwarded to the court,**  
 5 **appropriate prosecuting authority, or both, for review without**  
 6 **delay.**

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

13 (3) An appearance ticket ~~shall~~**must** not be issued to any of  
 14 the following:

15 (a) A person arrested for a **domestic violence** violation of  
 16 section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL  
 17 750.81 and 750.81a, or a local ordinance substantially  
 18 corresponding to **a domestic violence violation of section 81 or 81a**  
 19 **of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, if**  
 20 ~~the victim of the assault is the offender's spouse, former spouse,~~  
 21 ~~an individual who has had a child in common with the offender, an~~  
 22 ~~individual who has or has had a dating relationship with the~~  
 23 ~~offender, or an individual residing or having resided in the same~~  
 24 ~~household as the offender. As used in this subdivision, "dating~~  
 25 ~~relationship" means frequent, intimate associations primarily~~  
 26 ~~characterized by the expectation of affectional involvement. This~~  
 27 ~~term does not include a casual relationship or an ordinary~~  
 28 ~~fraternization between 2 individuals in a business or social~~  
 29 ~~context.~~**or an offense involving domestic violence as that term is**



1 defined in section 1 of 1978 PA 389, MCL 400.1501.

2 (b) A person subject to detainment for violating a personal  
3 protection order.

4 (c) A person subject to a mandatory period of confinement,  
5 condition of bond, or other condition of release until he or she  
6 has served that period of confinement or meets that requirement of  
7 bond or other condition of release.

8 (4) Except as provided in subsection (5), a police officer  
9 shall issue to and serve upon a person an appearance ticket as  
10 defined in section 9f of this chapter and release the person from  
11 custody if the person has been arrested for a misdemeanor or  
12 ordinance violation that has a maximum permissible penalty that  
13 does not exceed 1 year in jail or a fine, or both, and is not a  
14 domestic violence violation of section 81 or 81a of the Michigan  
15 penal code, 1931 PA 328, MCL 750.81 and 750.81a, a local ordinance  
16 substantially corresponding to a domestic violence violation of  
17 section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL  
18 750.81 and 750.81a, or an offense involving domestic violence as  
19 that term is defined in section 1 of 1978 PA 389, MCL 400.1501.

20 (5) The police officer may take the arrested person before a  
21 magistrate and promptly file a complaint as provided in section 13  
22 of this chapter instead of issuing an appearance ticket as required  
23 under subsection (4) if 1 of the following circumstances is  
24 present:

25 (a) The arrested person refuses to follow the police officer's  
26 reasonable instructions.

27 (b) The arrested person will not offer satisfactory evidence  
28 of identification.

29 (c) There is a reasonable likelihood that the offense would



1 continue or resume, or that another person or property would be  
2 endangered if the arrested person is released from custody.

3 (d) The arrested person presents an immediate danger to  
4 himself or herself or requires immediate medical examination or  
5 medical care.

6 (e) The arrested person requests to be taken immediately  
7 before a magistrate.

8 (f) Any other reason that the police officer may deem  
9 reasonable to arrest the person which must be articulated in the  
10 arrest report.

11 (6) If a police officer determines that 1 of the circumstances  
12 under subsection (5) applies and he or she takes an arrested person  
13 before a magistrate and promptly files a complaint as provided in  
14 section 13 of this chapter instead of issuing an appearance ticket,  
15 the police officer must specify the reason for not issuing a  
16 citation in the arrest report or other documentation, as  
17 applicable, and must forward the arrest report or other  
18 documentation, as requested, to the appropriate prosecuting  
19 authority for review without delay.

20 (7) An arrested person who is taken into custody under  
21 subsection (6) instead of being issued an appearance ticket must be  
22 charged by the appropriate prosecuting authority or released from  
23 custody not later than 3 p.m. the immediately following day during  
24 which arraignments may be performed.

25 (8) This section does not create a right to the issuance of an  
26 appearance ticket in lieu of an arrest. An arrested person may  
27 appeal the legality of his or her arrest as provided by law.  
28 However, an arrested person does not have a claim for damages  
29 against a police officer or law enforcement agency because he or



1 **she was arrested rather than issued an appearance ticket.**

2       Sec. 9f. (1) As used in sections 9c to 9g, "appearance ticket"  
3 means a complaint or written notice issued and subscribed by a  
4 police officer or other public servant authorized by law or  
5 ordinance to issue it directing a designated person to appear in a  
6 designated local criminal court at a designated future time in  
7 connection with his or her alleged commission of a designated  
8 violation or violations of state law or local ordinance. ~~for which~~  
9 ~~the maximum permissible penalty does not exceed 93 days in jail or~~  
10 ~~a fine, or both.~~ The appearance tickets ~~shall~~ **must** be numbered  
11 consecutively, **provide a space for the defendant's cellular**  
12 **telephone number and electronic mail address, if applicable,** be in  
13 a form required by the attorney general, the state court  
14 administrator, and the director of the department of state police,  
15 and consist of the following parts:

16       (a) The original which ~~shall~~ **must** be a complaint or notice to  
17 appear by the officer and filed with the court.

18       (b) The first copy which ~~shall~~ **must** be the abstract of court  
19 record.

20       (c) The second copy which ~~shall~~ **must** be retained by the local  
21 enforcement agency.

22       (d) The third copy which ~~shall~~ **must** be delivered to the  
23 alleged violator.

24       (2) With the prior approval of the state officials listed in  
25 subsection (1), an appearance ticket may be appropriately modified  
26 as to content or number of copies to accommodate law enforcement  
27 and local court procedures and practices.

