

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2125

 Session of
1984

INTRODUCED BY LESCOVITZ, HAGARTY, MAIALE, KUKOVICH, HOFFEL,
HARPER, COLAFELLA, NAHILL, RUDY, CORNELL, PISTELLA, PICCOLA,
McVERRY, SPENCER, LASHINGER, BUNT, GODSHALL, GEIST, MAYERNIK,
SWEET, PRATT, ALDERETTE AND WACHOB, MAY 1, 1984

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 28, 1984

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, authorizing probable cause arrests in
3 certain cases of domestic violence.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 18 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 ~~§ 2711. Probable cause arrests in domestic violence cases.~~ <—

9 ~~A police officer may arrest without a warrant a person at his~~
10 ~~place of residence if the police officer has probable cause to~~
11 ~~believe the person within the preceding four hours has violated~~
12 ~~section 2701 (relating to simple assault), 2702 (relating to~~
13 ~~aggravated assault) or 2705 (relating to recklessly endangering~~
14 ~~another person) with his spouse or other person with whom he~~
15 ~~resides being the victim, although the offense did not take~~
16 ~~place in the presence of the police officer. A police officer~~
17 ~~may not arrest a person pursuant to this section without first~~

1 ~~observing recent physical injury to, or impairment of condition~~
2 ~~of, the alleged victim.~~

3 § 2711. PROBABLE CAUSE ARRESTS IN DOMESTIC VIOLENCE CASES. <—

4 (A) ARREST.--A POLICE OFFICER SHALL HAVE THE SAME RIGHT OF
5 ARREST WITHOUT A WARRANT AS IN A FELONY WHENEVER HE HAS PROBABLE
6 CAUSE TO BELIEVE THE DEFENDANT HAS VIOLATED SECTION 2504
7 (RELATING TO INVOLUNTARY MANSLAUGHTER), 2701 (RELATING TO SIMPLE
8 ASSAULT), 2702(A)(3), (4) AND (5) (RELATING TO AGGRAVATED
9 ASSAULT) OR 2705 (RELATING TO RECKLESSLY ENDANGERING ANOTHER
10 PERSON) AGAINST HIS SPOUSE OR OTHER PERSON WITH WHOM HE RESIDES
11 OR HAS FORMERLY RESIDED ALTHOUGH THE OFFENSE DID NOT TAKE PLACE
12 IN THE PRESENCE OF THE POLICE OFFICER.

13 (B) SEIZURE OF WEAPONS.--THE ARRESTING POLICE OFFICER SHALL
14 SEIZE ALL WEAPONS USED BY THE DEFENDANT.

15 (C) BAIL.--

16 (1) A DEFENDANT ARRESTED PURSUANT TO THIS SUBCHAPTER
17 SHALL BE AFFORDED A PRELIMINARY ARRAIGNMENT BY THE PROPER
18 ISSUING AUTHORITY WITHOUT UNNECESSARY DELAY. IN NO CASE SHALL
19 THE ARRESTING OFFICER RELEASE THE DEFENDANT FROM CUSTODY
20 RATHER THAN TAKING THE DEFENDANT BEFORE THE ISSUING
21 AUTHORITY.

22 (2) IN DETERMINING WHETHER TO ADMIT THE DEFENDANT TO
23 BAIL, THE ISSUING AUTHORITY SHALL CONSIDER WHETHER THE
24 DEFENDANT POSES A THREAT OF DANGER TO THE VICTIM. IF THE
25 ISSUING AUTHORITY MAKES SUCH A DETERMINATION, IT SHALL
26 REQUIRE AS A CONDITION OF BAIL THAT THE DEFENDANT SHALL
27 REFRAIN FROM ENTERING THE RESIDENCE OR HOUSEHOLD OF THE
28 VICTIM AND THE VICTIM'S PLACE OF EMPLOYMENT AND SHALL REFRAIN
29 FROM COMMITTING ANY FURTHER CRIMINAL CONDUCT AGAINST THE
30 VICTIM AND SHALL SO NOTIFY THE DEFENDANT THEREOF AT THE TIME

1 THE DEFENDANT IS ADMITTED TO BAIL. A VIOLATION OF THIS
2 CONDITION SHALL BE PUNISHABLE BY THE REVOCATION OF ANY FORM
3 OF PRETRIAL RELEASE OR THE FORFEITURE OF BAIL AND THE
4 ISSUANCE OF A BENCH WARRANT FOR THE DEFENDANT'S ARREST OR
5 REMANDING HIM TO CUSTODY. THE DEFENDANT SHALL BE PROVIDED A
6 HEARING ON THIS MATTER.

7 (D) NOTICE OF RIGHTS.--

8 (1) UPON RESPONDING TO A DOMESTIC VIOLENCE CASE, THE
9 POLICE OFFICER SHALL ADVISE THE VICTIM OF THE AVAILABILITY OF
10 A SHELTER OR OTHER SERVICES IN THE COMMUNITY AND GIVE THE
11 VICTIM IMMEDIATE NOTICE OF THE LEGAL RIGHTS AND REMEDIES
12 AVAILABLE. THE NOTICE SHALL INCLUDE FURNISHING THE VICTIM A
13 COPY OF THE FOLLOWING STATEMENT: "IF YOU ARE THE VICTIM OF
14 DOMESTIC VIOLENCE, YOU HAVE THE RIGHT TO FILE A PRIVATE
15 CRIMINAL COMPLAINT AND GO TO COURT AND FILE A PETITION
16 REQUESTING AN ORDER FOR PROTECTION FROM DOMESTIC ABUSE
17 PURSUANT TO THE ACT OF OCTOBER 7, 1976 (P.L.1090, NO.218),
18 KNOWN AS THE PROTECTION FROM ABUSE ACT, WHICH COULD INCLUDE
19 THE FOLLOWING:

20 (I) AN ORDER RESTRAINING THE ABUSER FROM FURTHER
21 ACTS OF ABUSE.

22 (II) AN ORDER DIRECTING THE ABUSER TO LEAVE YOUR
23 HOUSEHOLD.

24 (III) AN ORDER PREVENTING THE ABUSER FROM ENTERING
25 YOUR RESIDENCE, SCHOOL, BUSINESS OR PLACE OF EMPLOYMENT.

26 (IV) AN ORDER AWARDING YOU OR THE OTHER PARENT
27 CUSTODY OF OR VISITATION WITH YOUR CHILD OR CHILDREN.

28 (V) AN ORDER DIRECTING THE ABUSER TO PAY SUPPORT TO
29 YOU AND THE MINOR CHILDREN IF THE ABUSER HAS A LEGAL
30 OBLIGATION TO DO SO."

1 (2) THE NOTICE SHALL INCLUDE THE RESOURCE LISTING,
2 INCLUDING THE TELEPHONE NUMBER, FOR THE AREA BATTERED WOMEN'S
3 SHELTER.

4 (E) CONTEMPT.--A VICTIM SHALL NOT BE HELD IN CONTEMPT FOR
5 FAILURE TO PROSECUTE OR REFUSAL TO TESTIFY IN CRIMINAL
6 PROCEEDINGS ARISING HEREUNDER.

7 Section 2. This act shall take effect in 60 days.