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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**

**No. 1929** Session of  
1989

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INTRODUCED BY HARPER, COHEN, TANGRETTI, CORRIGAN, PESCI, MORRIS,  
E. Z. TAYLOR, DALEY, PISTELLA, TRELLO, J. L. WRIGHT, MRKONIC,  
McCALL, BILLOW AND LINTON, OCTOBER 2, 1989

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REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 2, 1989

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, providing for mandatory arrest in  
3 domestic violence cases.

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

6 Section 1. Section 2711 of Title 18 of the Pennsylvania  
7 Consolidated Statutes is amended to read:

8 § 2711. [Probable cause] Mandatory arrests in domestic violence  
9 cases.

10 (a) General rule.--[A police officer shall have the same  
11 right of arrest without a warrant as in a felony whenever he has  
12 probable cause to believe the defendant has violated section  
13 2504 (relating to involuntary manslaughter), 2701 (relating to  
14 simple assault), 2702(a)(3), (4) and (5) (relating to aggravated  
15 assault) or 2705 (relating to recklessly endangering another  
16 person) against his spouse or other person with whom he resides  
17 or has formerly resided although the offense did not take place  
18 in the presence of the police officer. A police officer may not

1 arrest a person pursuant to this section without first observing  
2 recent physical injury to the victim or other corroborative  
3 evidence.]

4 (1) A police officer shall arrest any person who the  
5 officer has reasonable grounds to believe is committing or  
6 has committed domestic abuse and that the person's actions  
7 constitute the commission of a crime, and either or both of  
8 the following circumstances are present:

9 (i) The officer has a reasonable basis for believing  
10 that there is possibility of continued violence against  
11 the alleged victim.

12 (ii) There is evidence of physical injury to the  
13 alleged victim.

14 (2) As used in this subsection, the term "domestic  
15 abuse" means any of the following engaged in by an adult  
16 person against his or her spouse, former spouse or relative  
17 or against another person with whom the person resides or  
18 formerly resided:

19 (i) A violation of section 2504 (relating to  
20 involuntary manslaughter).

21 (ii) A violation of section 2701 (relating to simple  
22 assault).

23 (iii) A violation of section 2702(a)(3), (4) and (5)  
24 (relating to aggravated assault).

25 (iv) A violation of section 2705 (relating to  
26 recklessly endangering another person).

27 (v) The intentional infliction of physical pain,  
28 physical injury or illness.

29 (vi) The intentional impairment of physical  
30 condition.

1           (vii) A physical act or a threat in conjunction with  
2           a physical act, which may cause the other person  
3           reasonably to fear imminent engagement in the conduct  
4           described in this paragraph.

5           (b) Seizure of weapons.--The arresting police officer shall  
6 seize all weapons used by the defendant in the commission of the  
7 alleged offense.

8           (c) Bail.--

9           (1) A defendant arrested pursuant to this section shall  
10 be afforded a preliminary arraignment by the proper issuing  
11 authority without unnecessary delay. In no case shall the  
12 arresting officer release the defendant from custody rather  
13 than taking the defendant before the issuing authority.

14           (2) In determining whether to admit the defendant to  
15 bail, the issuing authority shall consider whether the  
16 defendant poses a threat of danger to the victim. If the  
17 issuing authority makes such a determination, it shall  
18 require as a condition of bail that the defendant shall  
19 refrain from entering the residence or household of the  
20 victim and the victim's place of employment and shall refrain  
21 from committing any further criminal conduct against the  
22 victim and shall so notify the defendant thereof at the time  
23 the defendant is admitted to bail. Such condition shall  
24 expire at the time of the preliminary hearing or upon the  
25 entry or the denial of the protection of abuse order by the  
26 court, whichever occurs first. A violation of this condition  
27 may be punishable by the revocation of any form of pretrial  
28 release or the forfeiture of bail and the issuance of a bench  
29 warrant for the defendant's arrest or remanding him to  
30 custody or a modification of the terms of the bail. The

1 defendant shall be provided a hearing on this matter.

2 (d) Notice of rights.--Upon responding to a domestic  
3 violence case, the police officer shall, orally or in writing,  
4 notify the victim of the availability of a shelter, including  
5 its telephone number, or other services in the community. Said  
6 notice shall include the following statement: "If you are the  
7 victim of domestic violence, you have the right to go to court  
8 and file a petition requesting an order for protection from  
9 domestic abuse pursuant to the act of October 7, 1976 (P.L.1090,  
10 No.218), known as the Protection From Abuse Act, which could  
11 include the following:

12 (1) An order restraining the abuser from further  
13 acts of abuse.

14 (2) An order directing the abuser to leave your  
15 household.

16 (3) An order preventing the abuser from entering  
17 your residence, school, business or place of employment.

18 (4) An order awarding you or the other parent  
19 temporary custody of or temporary visitation with your  
20 child or children.

21 (5) An order directing the abuser to pay support to  
22 you and the minor children if the abuser has a legal  
23 obligation to do so."

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